

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on March 12, 1996 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department
Laura Howard, Legislative Research Department
Patricia Pierron, Legislative Research Department
Pat Mah, Legislative Research Department
Carolyn Rampey, Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Revisor of Statutes
Judy Bromich, Administrative Assistant
Ronda Miller, Committee Secretary

Conferees appearing before the committee:

Senator Richard Rock
Dr. Michael Strouse, Executive Director of Community Living Opportunities, Inc.
Jane Rhys, Executive Director of Kansas Council on Developmental Disabilities
Secretary Rochelle Chronister, Department of Social and Rehabilitation Services

Others attending: See attached list

Having voted on the prevailing side of SB 720, Senator Burke moved. Senator Salisbury seconded that the Committee reconsider its action on SB 720. The motion carried on a voice vote.

It was moved by Senator Burke and seconded by Senator Salisbury that SB 720 be amended by the deletion of Public Broadcasting and that the bill as amended be recommended favorably for passage. It was noted that the budget for Public Broadcasting is in the Department of Administration's bill. The motion carried on a roll call vote.

SB 716: Appropriations for FY 97, department of education

Department of Education

Senator Kerr reviewed the FY 96 and FY 97 subcommittee reports (Attachment 1). He told members that the appropriation provided in item 1 of the FY 96 report is an assurance that funds will be in place pending their release by school boards in western Kansas districts. The FY 97 report contains a recommendation to reduce general state aid by the same amount.

Members discussed concerns related to the amount of base state aid per pupil. It was the consensus of members that additional monies should be provided if a funding source were found.

Concern was expressed about the deletion of funding for vocational technical education programs (item 8 of the FY 97 report). Senator Kerr noted that the net effect of the subcommittee's recommendation is to add \$195,000 to vocational education aid and to provide \$50,000 more than was provided in FY 96 for post secondary aid.

Senator Burke moved. Senator Rock seconded, that the subcommittee reports be adopted. The motion carried on a voice vote.

It was moved by Senator Burke and seconded by Senator Rock that SB 716 as amended be recommended favorably for passage. The motion carried on a roll call vote.

SB 727: Provision of community services to persons with developmental disabilities

The Chairman noted that this bill was heard by the community MR/DD subcommittee which recommends the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS, Room 123-S Statehouse, at 11:00 a.m. on March 12, 1996.

bill favorably for passage. He stated that the purpose of having an abbreviated hearing today would be to familiarize members with the bill. A document from Senator Morris, chairman of the MR/DD subcommittee, summarizing the proponents' and opponents' contentions regarding the bill was distributed to members (Attachment 2).

Senator Rock, sponsor of **SB 727**, distributed and reviewed his written testimony in support of **SB 727** (Attachment 3). He expressed concern that there is a conflict of interest between the CDDO service providers and competitive service providers if the 1995 DD Reform Act is not changed.

Dr. Michael Strouse, representing Community Living Opportunities, Inc., testified that Community Living Opportunities, Inc. is not a CDDO but has been an affiliate provider since its inception in 1977. He told members that the market for his services was defined by the fact that other community programs in Johnson and Douglas counties were not serving persons with multiple or severe disabilities. He reviewed the concerns that affiliate providers have regarding the Kansas Developmental Disabilities Reform Act of 1995 which are contained in his written testimony (Attachment 4). He noted that all service providers had grave concerns about the management of money under the Act and reviewed components of his proposed compromise solution (Attachment 4-2).

Jane Rhys, Executive Director of the Kansas Council on Developmental Disabilities, appeared before the Committee in opposition to **SB 727** and reviewed her written testimony which provided historical background of the Kansas DD Reform Act and which addressed concerns about the authority of CDDOs under the Act (Attachment 5). She stated that the CDDOs would not be a "gatekeeper" under the Act, but the Act would allow CDDOs to provide "one-stop shopping" for clients in need of services.

Secretary Rochelle Chronister, Department of Social and Rehabilitation Services, expressed her appreciation of Senator Rock's attempt to compromise, but testified in opposition to the bill. She stated that the Kansas Developmental Disabilities Reform Act was implemented on January 1, 1996 and the rules and regulations which provide choice are not scheduled to go into effect until July, 1996. She stated that she believes that once the rules and regulations have had an opportunity to work, the Senator's fears will be eliminated. Her written testimony was distributed to members (Attachment 6).

Written testimony in support of **SB 727** from Tom Laing on behalf of InterHab was distributed to members (Attachment 7).

The Chairman opened the floor to questions. Senator Vancrum asked how the compromise proposed by Dr. Strouse would not leave affiliates exposed to all the concerns listed on the first page of his written testimony. Dr. Strouse stated that the compromise would leave his agency exposed to all the concerns, but he would like the opportunity for CDDOs and CLOs to work out the issues, particularly the money issue. He told members that nothing in the bill changes the single point of entry and all providers intended for the Act to be managed care.

Senator Brady asked Dr. Strouse to cite a specific example of problems between affiliates and CDDOs or SRS. Dr. Strouse stated that a contract that was recently negotiated between SRS and the CDDOs involved many provisions that affect CLOs, but the CLOs were not part of the negotiations, though CDDOs were. He added that he wouldn't expect that managing monies and negotiating contracts for both entities would be a good policy to promote fair competition. In answer to Senator Petty, he stated that the CLOs want to make sure services are coordinated and organized, but not controlled.

Senator Salisbury moved, Senator Burke seconded, that bill draft 5 RS 2476 be introduced as requested by the University of Kansas. The motion carried on a voice vote.

It was moved by Senator Salisbury and seconded by Senator Burke that the minutes of the March 11 meeting be approved. The motion carried on a voice vote.

The Chairman adjourned the meeting at 12:14 P.M. The next meeting is scheduled for March 13, 1996.

SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: March 12, 1996

| NAME | REPRESENTING |
|--------------------|------------------------------------|
| Katie Sparks | DOB |
| Craig Grant | ITNEA |
| Ron Nitcher | 14th State Bd of Education |
| Breton Barton | DD Council |
| Shannon Jones | SILCK |
| Joe R. [unclear] | Ks ED Council |
| Sherry Seil | KAPS |
| John House | SRS |
| Rochelle [unclear] | SRS |
| [unclear] | SRS |
| Darwin Finch | SRS |
| Ken Bahr | 4th Enrollment USD's |
| Margie Pressgrove | InterHab, Intern |
| Deaki [unclear] | Top. Ind. & R CTR |
| Caryl [unclear] | " |
| Frank [unclear] | Self |
| Ray Aslin | KANSAS STATE & EXTENSION FORESTRY |
| JOHN STRICKLER | KS ADVISORY COUNCIL FOR ENVIR. ED. |
| Art Brown | and America's Unemployed 1997 |

SUBCOMMITTEE REPORT

Agency: State Department of Education

Bill No. 715

Bill Sec. 2

Analyst: Rampey

Analysis Pg. No. 23

Budget Page No. 159

| <u>Expenditure Summary</u> | <u>Agency Estimate FY 96</u> | <u>Gov. Rec. FY 96</u> | <u>Senate Subcommittee Adjustments</u> |
|------------------------------|----------------------------------|--------------------------------|--|
| All Funds: | | | |
| State Operations | \$ 17,477,085 | \$ 17,284,328 | - |
| Local Aid | 1,952,547,519 | 1,938,601,777 | - |
| Other Assistance | 35,012,086 | 35,012,086 | - |
| TOTAL | <u>\$ 2,005,036,690</u> | <u>\$ 1,990,898,191</u> | <u>-</u> |
| State General Fund: | | | |
| State Operations | \$ 8,162,151 | \$ 8,033,766 | \$ - |
| Local Aid | 1,747,939,720 | 1,732,083,978 | 1,299,000 |
| Other Assistance | 174,280 | 174,280 | - |
| TOTAL | <u>\$ 1,756,276,151</u> | <u>\$ 1,740,292,024</u> | <u>\$ 1,299,000</u> |
| FTE Positions | 207.0 | 207.0 | - |
| Unclassified Temp. Positions | 43.5 | 42.5 | - |
| TOTAL | <u>250.5</u> | <u>249.5</u> | <u>-</u> |

Agency Overview

The State Board of Education is a ten-member elected board established by the *Kansas Constitution*. It is responsible for the general supervision of public schools and all other educational interests of the state that are not under the jurisdiction of the Kansas Board of Regents. Its duties include accrediting elementary and secondary schools; establishing standard courses of study in the public schools; certifying teachers and administrators; approving public and private teacher education programs; administering a variety of state and federal aid programs; licensing proprietary schools; and supervising area vocational schools, technical colleges, and community colleges.

Agency Estimate/Governor's Recommendation

The State Department estimates revised expenditures in the current year that are \$6,660,495 in excess of the amount approved by the 1995 Legislature and adjusted by the State Finance Council. The amount, all of which is from the State General Fund, consists of the following:

***General State Aid.** The State Department is requesting a supplemental appropriation of \$3,368,114 for general state aid to schools as the consequence of rules and regulations adopted by the U.S. Department of Housing and Urban Development that were effective May, 1995, which affect the

*Senate Ways & Means
March 12, 1996
Attachment 1*

distribution of property taxes. As a result, school districts will receive less revenues from property taxes in January, 1996 (when the disbursement to local units from December tax payments is made) and more in July, 1996 (when the disbursement from the June payments is made). Because the July disbursement falls after the end of FY 1996, school districts will experience a shortfall that is estimated to be \$30.0 million in FY 1996 and \$4.0 million in FY 1997. However, based on revised estimates of school finance funding made in October, 1995, it is thought that lower-than-expected enrollments and greater local resources than originally estimated will offset most of the shortfall due to RESPA regulations. In addition, underspending in FY 1995 results in a larger-than-expected balance that has been reappropriated and used to finance FY 1996. As a result, the supplemental amount requested is \$3,368,114, not \$30.0 million.

The Governor recommends a supplemental appropriation of \$2,069,114 for general state aid. That amount is \$1,299,000 less than the amount estimated by the State Department of Education, the Division of the Budget, and the Legislative Research Department to fund fully the formula. The difference lies in the fact that normally there is a lag in expenditures from the State School District Finance Fund, which consists primarily of local effort recapture funds. Based on experience, funds remitted to the state from the local effort recapture are not all received in time to be redistributed during the same fiscal year. The Governor's recommendation makes the assumption that all of the local effort remittance will be available for distribution in FY 1996.

***KPERS-School.** The State Department is requesting a supplemental appropriation of \$3,283,381 for the employer's contribution for school members of the Kansas Public Employees Retirement System, for a total of \$63,177,381.

The Governor recommends the supplemental appropriation of \$3,283,381 for KPERS-School, as requested.

***State Operations – Other Operating Expenditures (1995 H.B. 2359 – Kansas School Safety and Security Act).** The State Department is requesting a supplemental appropriation of \$9,000 from the State General Fund for activities relating to its duties under the Kansas School Safety and Security Act. The requested money would be used to print and mail reporting forms to schools, compile the local data, and print the annual report.

The Governor does not approve the request for \$9,000 in additional funding. The Governor also makes miscellaneous reductions in other operating expenditures that total \$3,350.

***State Operations – Salaries.** The Governor reduces the State Department's estimate of expenditures in the current year by \$62,196. The reductions primarily relate to lower health insurance rates, although small reductions are made in other fringe benefits.

Senate Subcommittee Recommendations

The Senate Subcommittee concurs with the Governor's recommendations, with the following exceptions:


1. Add \$1,299,000 from the State General Fund for general state aid in order to fully fund the school finance formula for FY 1996. The money is a shift from FY

1997 and reduces the FY 1997 appropriation for general state aid by the same amount.

2. Amend the proviso to the grants to school districts for services provided juvenile detention facilities and the Flint Hills Job Corps Center. The change, for both FY 1996 and FY 1997, would be to add two additional dates (November 20 and April 20) to the existing September 20 date on which a count is made of the number of pupils residing at the Flint Hills Job Corps Center or confined in a juvenile detention facility. A district providing services to the pupils could use the higher of the three counts. (K.S.A. 1995 Supp. 72-8187 restricts the amount that districts can receive to the lesser of the actual cost of services provided or what they would get if each pupil were counted as two pupils under the School District Finance and Quality Performance Act.) The reason for the Subcommittee's amendment is that new juvenile detention facilities are being added annually and, unless the facility is added by September 20, the school district that provides the service does not get to count the pupils. In addition, the number of students being served by a school district can fluctuate from the September 20 count, resulting in services being provided for which no reimbursement is received.
3. Adopt the Governor's Budget Amendment to reduce estimated expenditures from the School District Capital Improvements Fund from \$16.5 million to \$16.0 million. The estimate of the amount of state aid that would be needed to pay the state's share of school district bond and interest payments was revised downward by the State Department of Education after the Governor made his recommendations.
4. Make a technical amendment to S.B. 715 to insert a proviso that was inadvertently left out of the bill. The Governor recommends a new fund beginning in FY 1996 for fees and expenditures connected with giving qualifying examinations to interpreters for the deaf who work in an educational setting. In the FY 1997 appropriations bill, the fund has a proviso that authorizes the State Department of Education to fix, charge, and collect fees charged applicants to take the examination and to spend money from the fund for the program. That proviso needs to be added to the FY 1996 bill as well.



Senator Dave Kerr, Subcommittee Chair



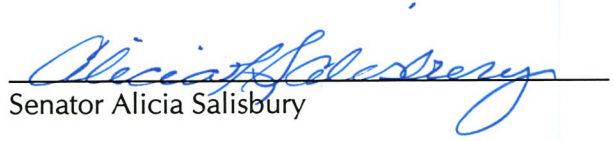
Senator Paul "Bud" Burke



Senator Jerry Karr



Senator Dick Rock



Senator Alicia Salisbury

SUBCOMMITTEE REPORT

Agency: State Department of Education

Bill No. 716

Bill Sec. 2

Analyst: Rampey

Analysis Pg. No. 23

Budget Page No. 159

| <u>Expenditure Summary</u> | <u>Agency Request FY 97</u> | <u>Revised Gov. Rec. FY 97</u> | <u>Senate Subcommittee Adjustments</u> |
|------------------------------|---------------------------------|--|--|
| All Funds: | | | |
| State Operations | \$ 17,678,888 | \$ 16,976,864 | \$ (171,104) |
| Local Aid | 2,208,586,717 | 1,936,677,702 | (817,306) |
| Other Assistance | 34,939,891 | 34,945,385 | (30,000) |
| TOTAL | <u>\$ 2,261,205,496</u> | <u>\$ 1,988,599,951</u> | <u>\$ (1,018,410)</u> |
| State General Fund: | | | |
| State Operations | \$ 8,584,267 | \$ 7,974,747 | \$ (86,131) |
| Local Aid | 2,006,467,295 | 1,733,527,029 | (1,012,306) |
| Other Assistance | 193,786 | 244,280 | (30,000) |
| TOTAL | <u>\$ 2,015,245,348</u> | <u>\$ 1,741,746,056</u> | <u>\$ (1,128,437)</u> |
| FTE Positions | 209.0 | 205.0 | - |
| Unclassified Temp. Positions | 37.5 | 39.5 | - |
| TOTAL | <u>246.5</u> | <u>244.5</u> | <u>-</u> |

Agency Request/Governor's Recommendation

The State Board's FY 1997 request from the State General Fund is an increase of \$258,969,197 above its estimate for the current year. The Governor's recommendations increase funding from the State General Fund by \$954,032 over his FY 1996 recommendation.

Major items in the FY 1997 request are the following:

***Salaries.** Funding for salaries in FY 1997 totals \$10,734,113, of which \$5,555,907 (51.8 percent) is from the State General Fund. **The Governor recommends** \$10,441,230 for salaries, a reduction of \$292,883 from the request (\$187,901 from the State General Fund and \$104,982 from other funds). The shrinkage rate for salaries funded from the State General Fund is increased from the 3.0 percent estimated by the State Department to 3.7 percent, an increase of \$33,700. The Governor deletes two positions (a Data Entry Operator II and a Keyboard Operator III) that are funded from the State General Fund and have been held vacant in order to generate the savings necessary to meet the required shrinkage reduction in the current year. The Governor does not approve the shift in status of the two federally-funded special projects positions to permanent status, as requested by the agency.

***Student Assessments.** For FY 1997, the State Board estimates expenditures of \$842,000 to give tests in the areas of mathematics, reading, science, and social studies. The appropriation of \$905,000 in the current year provides for testing in the areas of mathematics, reading, and writing. **The Governor includes** \$842,000 in his FY 1997 budget for the state assessments, as requested.

***Capital Outlay.** The State Department budgets expenditures of \$299,501 for capital outlay, which consists of \$171,226 for computers and related equipment, \$50,000 for imaging equipment, \$8,236 for books, \$4,139 for a printer, \$3,900 for videos, and \$62,000 for certificates of participation to pay for remodeling work done by the Department of Corrections several years ago. **The Governor recommends** \$62,000 for capital outlay in FY 1997. That amount would pay for the certificates of participation.

***General and Supplemental General State Aid.** The State Board is requesting \$1,536,004,600 for general state aid and \$70,485,000 for supplemental general state aid, for a total of \$1,606,489,600. The total is an increase of \$223.4 million over the revised estimate for the current year. The increase is accounted for primarily by the State Board's recommendation that base state aid per pupil be increased from \$3,626 to \$4,000 (at a cost of approximately \$203,044,300) and that four-year-old at risk children be counted as a 0.5 FTE pupil (at a cost of an estimated \$7.2 million). If there is no change in current law to increase base state aid per pupil or to count at risk four-year-olds, the total needed from the State General Fund for FY 1997 would be \$1,368,750,000 (\$1,320,078,000 in general state aid and \$48,672,000 in supplemental general state aid). The total is a decrease of \$14,325,000 from the current year total of \$1,383,075,000, primarily because of growth in local revenues (mainly from the property tax) that offset the amount of state aid required and the fact that most of the impact from the RESPA regulations will be felt in FY 1996. (The revised estimates were made by the State Department of Education, the Division of Budget, and the Legislative Research Department in October, 1995. The estimates will be reviewed and revised, if necessary, near the end of the 1996 Session.) The State Department also estimates expenditures of \$34,510,000 from the State School District Finance Fund.

The Governor recommends \$1,320,078,000 for general state aid and \$48,672,000 for supplemental general state aid, for a total of \$1,368,750,000. That amount would fund fully the program under current law (base state aid per pupil at \$3,626), including the correlation weighting step scheduled for implementation in FY 1997. The Governor's recommendation does not include funding to add four-year-old at risk children to the formula. In addition, the Governor recommends expenditures of \$34,510,000 from the State School District Finance Fund for both FY 1996 and FY 1997.

***Special Education.** The State Board requests \$211,475,353 for special education in FY 1997, which is estimated to fund 90 percent of excess costs. (The appropriation of \$185,816,131 in the current year is estimated to fund 83.2 percent.) **The Governor recommends** \$190,515,583 for special education, an increase of \$4,699,452 over the current year. The recommended amount would fund an estimated 81.1 percent of excess costs.

***Community Colleges.** The State Board requests a total of \$63,002,494 for the three community college state aid programs, an increase of \$9.4 million over the current year. The request is comprised of \$46,096,079 for credit hour state aid, \$14,263,620 for out-district state aid, and \$2,642,795 for general state aid. For the first time in many years, the State Board is not projecting an increase in the number of credit hours generated. However, it is asking that the appropriation for credit hour aid be increased from an estimated \$28.40 per academic hour to \$31.40; that all vocational courses be reimbursed at two times the academic hour rate (\$62.80), not just those that are offered by the five community colleges that are designated area vocational schools; and that out-district state aid be increased from \$24 to \$28 per hour. (The latter two requests would require statutory changes.) The request for general state aid is \$2,642,795, the same as the current year.

The Governor recommends a total of \$54,161,798 for community college aid, an increase of \$536,255 (1 percent) over the current year. All of the recommended increase is in the credit hour aid program, which would equate to \$28.79 per credit hour. The Governor recommends no change in current law with regard to the multiple for vocational education credit hour payments or in the out-district state aid rate.

***Inservice Education.** The State Board is requesting \$6,187,500 for inservice education, which would fund the state's portion (50 percent) of local programs for inservice education of certificated employees. The appropriation of \$5.4 million in the current year is estimated to fund 48 percent of local program costs. **The Governor recommends** \$4.0 million for inservice education aid. The amount is a reduction of \$1.4 million from the current year and would fund an estimated 32 percent of local program costs.

***KPERS-School.** The State Department is requesting \$69,723,333 to pay the employer's contribution for school members (elementary and secondary, area vocational, and community college employees) in the Kansas Public Employees Retirement System. The amount is an increase of \$6.5 million over the estimate for FY 1996, of which \$5.6 million is attributable to an increase in the employer contribution rate from 3.3 to 3.59. The remainder of the increase is due to growth in the covered payroll. **The Governor recommends** \$69,723,333 for KPERS-School, which is the estimated amount of the entitlement for FY 1997.

***Adult Basic Education.** The State Department is requesting \$1.2 million for the state match of federal funds for adult basic education. The federal matching requirement is that 25 percent of funding for adult basic education be from non-federal sources. Because federal funds have been declining (from an estimated \$2.1 million in FY 1996 to \$1,959,160 in FY 1997), the State Board wants to both make up for lost federal funds and also expand the program. **The Governor recommends** \$800,000 for adult basic education.

***Postsecondary Area Vocational School Aid.** The State Board requests a total of \$24,617,168 for postsecondary aid for area vocational schools and technical colleges. The amount is an increase of \$717,005 (3 percent) over the current year and consists of \$18,385,668 from the State General Fund and \$6,231,500 from the Economic Development Initiatives Fund (EDIF).

The Governor recommends \$24,155,665 for postsecondary area vocational school and technical college aid, an increase of \$255,502 (1.1 percent) over the current year. The amount consists of \$17,439,555 from the State General Fund and \$6,716,110 from the EDIF.

***Parent Education.** The State Board requests \$3.0 million for parent education programs, an increase of \$250,000 over the current year. **The Governor recommends** \$2,750,000 for the parent education program, the same as the current year.

***Educational Excellence Grants.** The State Board requests \$2.0 million from the EDIF for enhancement and innovative programs developed by school districts. The money would be matched from local resources. The current year funding of \$1,485,000 is for 21 approved grants. **The Governor recommends** \$1,485,000 from the EDIF for educational excellence grants, the same as the current year.

***Vocational Education Capital Outlay.** The State Board requests \$2.0 million from the EDIF for capital outlay aid to area vocational schools, technical colleges, and community colleges that are designated area vocational schools. State grants have to be matched 50 percent at the local level. **The Governor recommends** \$1,650,000 from the EDIF for the vocational education capital outlay program, the same as the current year.

***Technology Innovation and Internship Grants.** The State Board has budgeted expenditures of \$500,000 in both FY 1996 and FY 1997 for grants to area vocational schools, technical colleges, and community colleges to support innovation in emerging technologies, manufacturing, and areas of skill shortages. Grants must be matched 100 percent with funds or in-kind support from local businesses. Funding is from the EDIF. **The Governor recommends** no funding for this program in FY 1997.

***Other Grants.** The State Board requests \$25,000 from the EDIF for the Kansas Foundation for Agriculture in the Classroom, the same amount as the current year. The money must be matched 40 percent from private resources. In addition, the State Board requests \$20,000 from the EDIF for the Kansas Cultural Heritage Center, the same amount as the current year. (A proviso to the FY 1996 appropriation states that it is the intent of the Legislature to phase out funding for the Center over the next two fiscal years.)

The Governor recommends \$25,000 for Agriculture in the classroom and \$20,000 for the Kansas Cultural Heritage Center, as requested, but he switches the funding from the EDIF to the State General Fund. In addition, he recommends \$25,000 from the State General Fund for a new program that will provide environmental education grants. Funding for all three programs is combined in a single line item appropriation for "other grants."

Senate Subcommittee Recommendations

The Senate Subcommittee concurs with the Governor, with the following exceptions:

1. Add \$10,500 from the State General Fund to pay costs associated with the "public education report card" required by 1995 H.B. 2173.
2. Amend the proviso to the appropriation for operating expenses to provide for an unlimited reappropriation of State General Fund money from FY 1996 to FY 1997. The effect of the Subcommittee's recommendation would be to make it possible for the State Department to make whatever reductions in expenditures it can in the current year in order to reallocate savings to FY 1997.
3. Make separate appropriations from the State General Fund in the amounts of \$25,000 for the Kansas Foundation for Agriculture and \$15,000 for the Kansas Cultural Heritage Center. The Governor recommends an appropriation of \$25,000 for the Kansas Foundation for Agriculture, \$20,000 for the Kansas Cultural Heritage Center, and \$25,000 for a new program for environmental education. Under the Governor's recommendation, the amounts are included in a single appropriation for "other grants." The Subcommittee's recommendation would reduce the appropriation for grants by \$30,000. The Subcommittee notes that the 1995 Legislature attached a proviso to the appropriation for the Cultural Heritage Center stating that it was the Legislature's intention to phase out funding for the program over a two-year period. Funding was reduced from \$25,000 in FY 1995 to \$20,000 in FY 1996.
4. Add \$37,297 from the State General Fund for the salaries of temporary employees who are used at times during the year when an increase in workload occurs. The addition would bring the total available to \$51,628, which the Subcommittee believes is justified in view of the increased shrinkage rate imposed on the agency for FY 1997.
5. Reduce general state aid from the State General Fund by \$1,299,000 and shift that amount to FY 1996. The Subcommittee's action would make enough money available in FY 1996 to fully fund the formula, but would reduce the amount estimated to fully fund the formula in FY 1997 by the amount being shifted.

6. Concur with the Governor's revision to his budget, which increases expenditures from the State School District Finance Fund by \$1,910,000 in FY 1997 (from \$32,600,000 to \$34,510,000). The revised figure is the Governor's estimate of expenditures from the fund that consists primarily of local effort recapture money.
7. Add \$271,694 from the State General Fund for Juvenile Detention Facilities Grants, for a total of \$2,712,248. In addition, amend the proviso to the appropriation to add two additional dates (November 20 and April 20) to the existing September 20 date on which a count is made of the number of pupils residing at the Flint Hills Job Corps Center or confined in a juvenile detention facility. (This is the same proviso that is added to the appropriation for FY 1996.)
8. Delete \$205,000 from the Economic Development Initiatives Fund (EDIF) for postsecondary aid for area vocational schools and technical colleges, for a total of \$23,950,665 (\$17,439,555 from the State General Fund and \$6,511,110 from the EDIF.) The total is an increase of \$50,502 (0.2 percent) over the amount that is available in the current year.
9. Add \$400,000 from the EDIF for Technology Innovation and Internship Grants, for which the Governor provided no funding. The amount is a reduction of \$100,000 from the \$500,000 available in the current year. The program provides start-up grants to area vocational schools, technical colleges, and community colleges in support of innovative courses in emerging technologies, manufacturing, or areas of skill shortages. Grants also provide internships to allow an exchange of staff between industrial and educational settings. Grants must be matched 100 percent or with in-kind support by private businesses.
10. Add \$15,000 from the State General Fund for Adult Basic Education, for a total of \$815,000.
11. In order to accurately reflect the Governor's intent, provide for a \$50,000 transfer from the Children Trust Account of the Family and Children Investment Fund of the Corporation for Change for the Communities in Schools Program.
12. In order to accurately reflect the Governor's intent, increase the amount of the quarterly transfer from the State Highway Fund for the school bus safety program from \$40,025 to \$42,428. The total transfer recommended by the Governor for FY 1997 is \$169,712.
13. Delete \$218,901, of which \$133,928 is from the State General Fund, based on the recommendation to delete funding for the six-month 2.5 percent unclassified merit pool (\$40,073); classified step movement (\$157,403); and the longevity bonus (\$21,425) from individual agency budgets.
14. The Subcommittee calls attention to the uncertainty surrounding the status of federal funding for the State Department of Education. Proposals currently under consideration by the Congress could result in a decrease in funding from FY 1996 to FY 1997 ranging from \$5.0 million to more than \$20.0 million. The most recent information indicates that reductions most likely will be at the high end of the range. Possible cuts include:

- Almost \$10.0 million in Chapter 1/Title 1 funding for disadvantaged students (from \$59.7 million to \$50.0 million), including funding for migrant education, Even Start programs, and other programs for disadvantaged, neglected or delinquent children;
- \$6.1 million for nutrition services (from \$91.3 million to \$85.2 million), including funding for the school breakfast and lunch programs, for child and adult care food programs, the summer food service program, and nutrition education training;
- Almost \$2.0 million for vocational education (from \$10.6 million to \$8.6 million); and
- Various reductions in other programs, including funding for Chapter 2/Title VI (innovation and school improvement), Adult Basic Education, and Goals 2000 – the Educate America Act.


In addition to reductions in programs that provide direct aid to schools, there are possible reductions in federal funding that the State Department uses for salaries and other operating expenses. Although the magnitude of the cuts will not be known until Congress takes final action, the Subcommittee believes the Legislature should be made aware of the reduction in federal funds the State Department may experience in FY 1997.



Senator Dave Kerr, Subcommittee Chair



Senator Paul "Bud" Burke



Senator Jerry Karr



Senator Dick Rock



Senator Alicia Salisbury

/ - / /

State Department of Education

| Program | Actual FY 1995 | Rev. Agency Est. FY 1996 | Gov. Rec. FY 1996 | House Adjust. to Gov. FY 1996 | Senate Sub. Adjust. to Gov. FY 1996 | Rev. Agency Est. FY 1997 | Gov. Rec. FY 1997 | House Adjust. to Gov. FY 1997 | Senate Sub. Adjust. to Gov. FY 1997 |
|--|------------------------|-----------------------------|------------------------|----------------------------------|--|-----------------------------|------------------------|----------------------------------|--|
| STATE GENERAL FUND | | | | | | | | | |
| General State Aid | \$1,297,193,581 | 1,341,475,000 | \$1,340,178,000 | \$1,299,000 | \$1,299,000 | \$1,320,078,000 a) | \$1,320,078,000 | (\$1,299,000) | (\$1,299,000) |
| Supplemental General State Aid | 40,004,533 | 41,600,000 | 41,600,000 | 0 | 0 | 48,672,000 a) | 48,672,000 | 0 | 0 |
| School District Capital Improvement | 10,986,035 | 16,000,000 | 16,000,000 | 0 | 0 | 20,500,000 | 20,500,000 | 0 | 0 |
| Special Education Aid | 177,289,077 | 185,816,131 | 185,816,131 | 0 | 0 | 211,475,353 | 190,515,583 | 0 | 0 |
| School Food Assistance | 2,510,483 | 2,510,486 | 2,510,486 | 0 | 0 | 2,510,486 | 2,510,486 | 0 | 0 |
| Inservice Education Aid | 5,399,067 | 5,400,000 | 5,400,000 | 0 | 0 | 6,187,500 | 4,000,000 | 0 | 0 |
| Educable Deaf/Blind Aid | 100,000 | 110,000 | 110,000 | 0 | 0 | 110,000 | 110,000 | 0 | 0 |
| Adult Basic Education Aid | 780,892 | 784,161 | 800,000 b) | 0 | 0 | 1,180,000 | 800,000 | 0 | 15,000 |
| Parent Education Aid | 2,479,114 | 2,722,500 | 2,750,000 b) | 0 | 0 | 2,970,000 | 2,750,000 | 0 | 0 |
| Postsecondary AVTS Aid | 17,414,808 | 17,850,163 | 17,850,163 | 0 | 0 | 18,385,668 | 17,439,555 | 0 | 0 |
| Comm. College Credit Hr. Aid | 36,029,808 | 38,756,775 | 38,756,775 | 0 | 0 | 46,096,079 | 39,293,030 | 0 | 0 |
| Comm. College Out-Dist. Aid | 11,874,431 | 12,225,973 | 12,225,973 | 0 | 0 | 14,263,620 | 12,225,973 | 0 | 0 |
| Comm. College General Aid | 2,640,011 | 2,642,795 | 2,642,795 | 0 | 0 | 2,642,795 | 2,642,795 | 0 | 271,694 |
| KPERS—School | 58,208,329 | 63,177,381 | 63,177,381 | 0 | 0 | 69,723,333 | 69,723,333 | 0 | 0 |
| Juvenile Detention Facilities Grant | 1,186,788 | 2,440,554 | 2,440,554 | 0 | 0 | 2,752,000 | 2,440,554 | 0 | 0 |
| Kansas Cultural Heritage Center | 0 | 0 | 0 | 0 | 0 | 0 | 20,000 | 0 | (5,000) |
| Ag. In Classroom | 0 | 0 | 0 | 0 | 0 | 0 | 25,000 | 0 | 0 |
| Environmental Education | 0 | 0 | 0 | 0 | 0 | 0 | 25,000 | 0 | (25,000) |
| Agency Operations | 7,523,324 | 8,162,151 | 8,033,766 | 0 | 0 | 8,584,267 | 7,974,747 | 10,500 | (86,131) |
| TOTAL — SGF | \$1,671,620,281 | \$1,741,674,070 | \$1,740,292,024 | \$1,299,000 | \$1,299,000 | \$1,776,131,101 | \$1,741,746,056 | (\$1,288,500) | (\$1,128,437) |
| STATE SCHOOL DISTRICT FINANCE FUND | \$35,421,781 | \$33,212,000 | \$34,510,000 | (\$1,298,000) | (\$1,298,000) | \$34,510,000 | \$34,510,000 | \$0 | \$0 |
| ECONOMIC DEVELOPMENT INITIATIVES FUND | | | | | | | | | |
| Educational Excellence Grants | \$1,485,000 | \$1,485,000 | \$1,485,000 | \$0 | \$0 | \$2,000,000 | \$1,485,000 | \$0 | \$0 |
| Postsecondary AVTS Aid | 5,700,000 | 6,050,000 | 6,050,000 | 0 | 0 | 6,231,500 | 6,716,110 | 0 | (205,000) |
| Vocational Education Capital Outlay Aid | 1,500,000 | 1,650,000 | 1,650,000 | 0 | 0 | 2,000,000 | 1,650,000 | 0 | 0 |
| Technology Innovation | 485,427 | 500,000 | 500,000 | 0 | 0 | 500,000 | 0 | 0 | 400,000 |
| Kansas Cultural Heritage Center | 25,000 | 20,000 | 20,000 | 0 | 0 | 20,000 | 0 | 0 | 0 |
| Ag. in Classroom | 25,000 | 25,000 | 25,000 | 0 | 0 | 25,000 | 0 | 0 | 0 |
| TOTAL — EDIF | \$9,220,427 | \$9,730,000 | \$9,730,000 | \$0 | \$0 | \$10,776,500 | \$9,851,110 | \$0 | \$195,000 |
| GRAND TOTAL SGF, SSDFF, and EDIF | \$1,716,262,489 | \$1,784,616,070 | \$1,784,532,024 | \$1,000 | \$1,000 | \$1,821,417,601 | \$1,786,107,166 | (\$1,288,500) | (\$933,437) |

a) Based on current law. The State Board's request, which would require a change in law, is \$1,536,004,600 for general state aid and \$70,485,000 for supplemental general state aid.

b) Includes funds that the State Department had intended to use for agency operating expenditures.

KANSAS STATE BOARD OF EDUCATION
 PERFORMANCE INDICATORS
 FY 1995 – FY 1997

1-12

| <u>OUTCOMES EDUCATION</u> | <u>FY 1995 ACTUAL</u> | <u>FY 1996 ESTIMATE</u> | <u>FY 1997 ESTIMATE</u> |
|--|---------------------------|-----------------------------|-----------------------------|
| 1. Student Drop–Out Rate | 3.5% | 3.25% | 3.25% |
| 2. Student Graduation Rate | 91.8% | 92.0% | 92.0% |
| 3. Percentage of students answering questions correctly on Kansas reading assessment | | | |
| A. Narrative Portion | 71.5% | 72.0% | 72.3% |
| B. Expository Portion | 56.6% | 57.0% | 57.3% |
| 4. Percentage of students receiving passing grades in advanced science courses | 28.0% | 30.0% | 31.5% |
| 5. Percentage of students receiving passing grades in advanced math courses | 31.0% | 33.0% | 34.0% |
| 6. Percentage of students demonstrating mastery of algebraic skills | 43.0% | 45.0% | 46.0% |
| 7. Percentage of students answering questions correctly on Kansas mathematics assessment, common items | | | |
| A. Grade 4 | 50.4% | 52.5% | 52.7% |
| A. Grade 7 | 47.9% | 48.5% | 48.7% |
| A. Grade 10 | 44.4% | 44.9% | 45.3% |

COMMUNITY COLLEGES AND COMMUNITY EDUCATION

| | | | |
|---|----|----|----|
| 1. Programs covered by applied science degree articulation agreements | 40 | 40 | 41 |
|---|----|----|----|

| | | | |
|--|--------|--------|--------|
| 2. Businesses served with customized training programs | 1,650 | 1,650 | 1,650 |
| 3. Enrollment in training and retraining programs | 57,240 | 57,985 | 60,000 |
| 4. Adult education programs attaining indicators of program quality | 15 | 15 | 15 |
| 5. Participants in staff development programs for adult educators | 600 | 550 | 540 |
| 6. Number of special population students obtaining employment in their field of training | 2,154 | 2,154 | 2,150 |

TECHNICAL EDUCATION OUTCOMES

| | | | |
|--|--------|--------|--------|
| 1. Schools integrating academic and vocational education | 100 | 180 | 180 |
| 2. Number of 2+2 articulation agreements between high schools and postsecondary institutions | 105 | 140 | 140 |
| 3. Number of Tech Prep students | 1,596 | 2,000 | 2,250 |
| 4. Workers trained or retrained through business/industry education agreements | 6,969 | 7,200 | 7,200 |
| 5. Enrollment in USD and AVTS training/retraining programs | 42,450 | 39,400 | 40,000 |
| 6. Students earning associate in applied science degrees | 225 | 250 | 300 |

SPECIAL EDUCATION OUTCOMES

| | | | |
|--|-------|-------|-------|
| 1. Number of programs serving students based on individual needs rather than categorical label | 1,788 | 1,900 | 1,900 |
| 2. Percent of growth in the number of students with disabilities receiving services in the supported general education environment | 5.3% | 6.2% | 6.2% |

3. Number of written agreements between/among state agencies for the collaboration of integrated service

4

5

6

4. Number of families providing input into compliance monitoring per year

2,573

3,050

3,050

SB 727

PROPONENTS

Proponents of SB 727 contend that the purpose of the bill is to revise the 1995 Developmental Disability Reform Act so as to:

(a) empower the DD person, the family, or the guardian so that they might make realistic choices within a free-enterprise system; and

(b) to encourage current and prospective providers to develop quality services within a fair and competitive environment.

Proponents contend that they seek to eliminate the domination by Community Development Disability Organizations (CDDO's) of competing service providers. Proponents state that with SB 727 the CDDO's would control dissemination of information to prospective clients; would evaluate the quality of their "competitors'" services; would negotiate with SRS as general contractor for all services, and then subcontract services to competing providers; would receive from SRS, administer and remit all state funds due their "competitor"; and, in some circumstances, could control admission to competitors' services independent of clients' choices.

Proponents of SB 727 provided the subcommittee with a "balloon" incorporating proposed amendments to SB 727. This "balloon" would strike "new section 6", which drew the most criticism from opponents. These proposed amendments also clarified the term "Special Care Persons" and provided SRS with the alternative of appointing or employing an independent non-provider entity which would contract with, reimburse and conduct quality assurance for all service providers, including CDDO's.

*Senate Ways & Means
March 12, 1996
Attachment 2*

OPPONENTS

SRS contends that centralizing provider services through CDDO's is a process of decentralizing management from Topeka to the local level. SRS states that CDDO's will provide a backup for service to the DD client should the chosen provider become inadequate or no longer wish to serve the client. SRS also contends that SB 727 would require the addition of more voluminous regulations.

Several opponents pointed out that they had worked long and hard on the DD Act, felt ownership in that work product, and that SB 727 "came out of no where, late in the process, without any input from consumer advocacy groups and service providers". They generally agreed that "some of the proposed amendments" may have merit, but that the act should be in place for a year before changes are made.

A controversial "fiscal note" was provided by SRS. SRS has, until the DD Act was implemented, contracted with both CMRC's and affiliates and has performed quality assurance reviews.

SRS estimates that continuing their past contract policy would require them to add four FTE positions. SRS estimates that to continue to perform quality assurance reviews of CDDO's and affiliates would require 36 FTE's compared to the current 12.

SRS, when questioned, stated that there are currently 28 CDDO's and approximately the same number of "affiliates". SRS, under the current act, would contract with CDDO's to perform quality assurance reviews of affiliates. SRS was uncertain of the additional cost of having CDDO's subcontracting, evaluating, administering funds for and performing quality assurance reviews of affiliates. SRS was also not clear on who would perform quality assurance reviews on the CDDO's.

RICHARD R. ROCK
 SENATOR, 32ND DISTRICT
 COWLEY AND SUMNER COUNTIES

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TOPEKA

SENATE CHAMBER

OFFICE OF ASSISTANT MINORITY LEADER

COMMITTEE ASSIGNMENTS
 RANKING MINORITY MEMBER: WAYS AND MEANS
 MEMBER: INTERSTATE COOPERATION
 JUDICIARY
 TRANSPORTATION AND
 UTILITIES

Testimony
 Senator Dick Rock
 March 12, 1996

SB 727

I have provided the committee with a "balloon" of proposed amendments to S.B. 727. The principle purpose of the balloon was to strike out new section 6. That section, on loan guarantees, was causing concerns and false charges that were a burden to this bill and not relative to the real purpose of the bill. The second purpose of the bill was to provide an alternative to S.R.S. continuing to negotiate provider contracts or continuing to perform quality assurance reviews. The amendment would allow S.R.S. to establish or contract with an independent, non-provider entity to perform such functions. Finally, there is some clarification language proposed.

The primary purpose of SB 727 is to cure a problem that has been present for years within the M.R. service provider community. C.M.R.C.'s have controlled M.R. services for years through their relationship with S.R.S. If the 1995 D.D. Reform Act remains unchanged, that control will have become statutory.

I think a little history helps explain the problem. Community Mental Retardation Centers (C.M.R.C.'s) were first put in place in the early 60's in response to efforts by parent activists. That act provided counties, or combinations of counties, a means of financing efforts of parents and guardians. Local C.M.R.C.'s sought to provide the services their communities wanted. These C.M.R.C. services were very different, one from the other. They still are.

*Senate Ways & Means
 March 12, 1996
 Attachment 3*

Some provide health care services, some provide residences, some out-patient, some respite care. In my county that service is a program that provides M.R. clients an opportunity to be productive and active workers. These programs are supported by county mill levies.

Several years ago we reformed the Mental Health System in Kansas by putting in a "Gate Keeper" concept. It has worked well. Mental health clients are transitional. By that I mean that mental health clients generally have the capacity to make substantial improvement but, from time to time, may need counseling, medication, and hospitalization. A "Gate Keeper" was needed to decide whether, when, where, and how long to provide treatment.

Last year, the D.D. Reform Act was written based on the mental health "Gate Keeper" model. It is a good act. It provides statutory assurance of rights and choices for the developmentally disabled and of responsibilities for the state. The act renamed existing C.M.R.C.'s. They became Community Developmental Disability Organizations (C.D.D.O.'s). The act placed the new D.D. Act on the old C.M.R.C. infrastructure.

The problem with all this is that the M.R. community does not need a "Gate Keeper" - it needs a "Gate Opener". There has been only one client admitted to a state hospital in the last three years. Despite all the talk about closing hospitals, despite all the pressures to move clients into the community, despite all the plans and negotiations with providers - little has happened. There is more than one reason for that, but the primary reason is a lack of new and better service providers.

C.M.R.C.'s are now C.D.D.O.'s. C.D.D.O.'s are good people that do good work. But the work has changed since the C.M.R.C. Act first came into being. Today, community service providers have become an industry. The budget went from \$12 million to \$80 plus million in five years - and is preparing to double and redouble.

C.D.D.O.'s, under the 1995 D.D. Act, totally dominate almost every aspect of this industry. There is, in fact, a basic conflict of interest between C.D.D.O. service providers and competitive service providers.

Currently, C.D.D.O.'s control the dissemination of information to

prospective clients about their community service competitors. C.D.D.O.'s "evaluate" the quality of their competitor's service. They negotiate their competitor's rate structure with S.R.S. The competitor must then negotiate a contract with the C.D.D.O. in order to become operational. C.D.D.O.'s receives and administers all community provider D.D. funds. They remit S.R.S. funds to their competitors. C.D.D.O.'s would perform quality assurance reviews of their competitors.

C.D.D.O.'s currently control admissions to competitor's group homes that serve severely disabled clients and can refuse admission independent of the choice of a family member or guardian. C.D.D.O.'s also conduct annual reviews of such competitor's operations and can re-assign clients to other facilities on their own authority.

This bill gives the individual, the family or the guardian real "choice" to go into an open, competitive, free enterprise system. By empowering these disabled persons and their representatives to become "customers", by creating a "level playing field", by encouraging providers to compete, the state will inevitably inherit more and better services at a reasonable cost.

If you were a competing service provider deciding whether you wanted to compete with the C.D.D.O. in this business climate, what would you do? If you were the C.D.D.O., being provided all these controls over your competitor and being paid for administering them, would you want to give that up?

This bill follows the national trend to empower and fund choices of persons served, not programs. Further, this bill eliminates 28 unnecessary and duplicative administrative infrastructures which interfere with a free customer choice, a free provider market, and which S.R.S. currently satisfactorily performs these managed care and quality control functions statewide with only a few staff. However, under the balloon amendments I have mentioned today, S.R.S. can establish a regional entity to do these functions or they could contract them to a non-competitive third party.

This bill does not depreciate any developmental disability right or

benefit in the current act. C.D.D.O.'s would continue as the "Gate Keeper" for information purposes, but customers would be free to make contact and to contract with providers of their choice. S.R.S. would contract with and reimburse said providers directly or through an independent source. National accreditation, state licensure and S.R.S. teams would continue to provide quality assurance functions for all providers, including C.D.D.O.'s

Finally, I do wish to speak briefly about the fiscal note. Currently, the C.D.D.O.'s and the affiliates they supervise are about equal in number. The C.D.D.O.'s are generally larger, but not always. In the western part of Kansas one C.D.D.O. has 17 counties and, I believe, no affiliates. The purpose of this bill is to encourage competition and, consequently, increase the number of service providers. Hopefully there will be more providers with whom to contract and who require quality assurance reviews.

Currently and historically, S.R.S. has negotiated all these contracts and performed all these reviews. How they arrive at the conclusion that they need this number of new F.T.E.'s is interesting. Several questions were not answered in the subcommittee testimony. One of those questions was that since at least half of the contracts and probably more of the quality assurance reviews, under the act, would be related to C.D.D.O.'s (and not affiliates), what is that fiscal note? Surely somebody will provide quality assurance reviews of C.D.D.O.'s. S.R.S. did agree that they would provide extra compensation to the C.D.D.O.'s for sub-contracting with affiliates, evaluating their programs, reviewing their quality, administering their finances, etc. What is that fiscal note?

In other words, the cost of having 28 separate infrastructures out there who, on average, are currently supervising about one affiliate each, may well be in excess of the cost of providers independent, non-competitive entities to perform their tasks.

To: Senator Steve Morris
Fr: Dr. Tony Lybarger
Re: M.R. Service System Revision
Dt: 3/6/96

In the Fall of 1996 I left my position as Superintendent of Winfield State Hospital to pursue entrepreneurial activities in the private sector. This pursuit led me to Cedar Vale Community Hospital, in Chautauqua County, where I work as a consultant manager. As a part of my effort, we have created a for-profit corporation with the intent of becoming an affiliate with New Beginnings in Independence. New Beginnings is the CDDO for our county. The diversification is good for the hospital, my experience fits the effort and a reduced array of choices for persons with mental retardation exist in this rural portion of Kansas. I met with the Director of New Beginnings in early February to establish our interest, clarify the process and confirm the need for additional services. As a point of reference, I should tell you that New Beginnings had established two community residences in Cedar Vale. The management of both residences, however, was turned over to Southwinds of Winfield Kansas in 1995. It is my understanding that Southwinds is an affiliate of Cowley Cowley Developmental Services of Arkansas, Kansas. In January of 1996 both residences were closed. My meeting with the Director was positive as the need for additional services was clear. We left the meeting with two issues to be resolved. First, could a for-profit organization become an affiliate. Second, the Director was to find on 2/22/96 whether Southwinds, as a part of their affiliate agreement, had been given the exclusive right to provide services to persons with mental retardation in the Cedar Vale area. I have not received a clarification on these issues.

I believe our current CDDO system is restrictive. In fact, there is the appearance that some agencies may support choice the strongest, only when they are the choice.

Session of 1995

SENATE BILL No. 727

By Committee on Ways and Means

2-20

9 AN ACT concerning developmental disabilities; provision of community
 10 services to persons with developmental disabilities; ~~establishing the~~
 11 ~~community group home bond guarantee fund~~; amending K.S.A. 1995
 12 Supp. 39-1803, 39-1804, 39-1805, 39-1806 and 39-1807 and repealing
 13 the existing sections.

14
 15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 1995 Supp. 39-1803 is hereby amended to read as
 17 follows: 39-1803. As used in the developmental disabilities reform act:

18 (a) "Adaptive behavior" means the effectiveness or degree with which
 19 an individual meets the standards of personal independence and social
 20 responsibility expected of that person's age, cultural group and commu-
 21 nity.

22 (b) "Affiliate" means an entity or person that meets standards set out
 23 in rules and regulations adopted by the secretary relating to the provision
 24 of services and that contracts with a community developmental disabilities
 25 organization.

26 (c) "Community services" means services provided by a commu-
 27 nity service provider to meet the needs of persons with developmental
 28 disabilities relating to work, living in the community, and individualized
 29 supports and services.

30 (d) "Community developmental disability organization" means
 31 any community mental retardation facility that is organized pursuant to
 32 K.S.A. 19-4001 through 19-4015 and amendments thereto.

33 (e) "Community service provider" means a community develop-
 34 mental disability organization or affiliate thereof entity which has entered
 35 into a contract with the secretary to provide community services.

36 (f) (e) "Developmental disability" means:

37 (1) Mental retardation; or

38 (2) a severe, chronic disability, which:

39 (A) Is attributable to a mental or physical impairment, a combination
 40 of mental and physical impairments or a condition which has received a
 41 dual diagnosis of mental retardation and mental illness;

42 (B) is manifest before 22 years of age;

43 (C) is likely to continue indefinitely;

have severe medical, behavioral, or adaptive disabilities or conditions that require specialized and/or additional community supports to maintain a safe and acceptable community life.

1 (D) results, in the case of a person five years of age or older, in
2 substantial limitation in three or more of the following areas of major life
3 functioning: Self-care, receptive and expressive language development
4 and use, learning and adapting, mobility, self-direction, capacity for in-
5 dependent living and economic self-sufficiency;

6 (E) reflects a need for a combination and sequence of special inter-
7 disciplinary or generic care, treatment or other services which are lifelong,
8 or extended in duration and are individually planned and coordinated;
9 and

10 (F) does not include individuals who are solely and severely emo-
11 tionally disturbed or seriously or persistently mentally ill or have disabil-
12 ities solely as a result of the infirmities of aging.

13 ~~(g)~~ (f) "Institution" means state institution for the mentally retarded
14 as defined by subsection (c) of K.S.A. 76-12b01 and amendments thereto
15 or intermediate care facility for the mentally retarded of nine beds or
16 more as defined by subsection (a)(4) of K.S.A. 39-923 and amendments
17 thereto.

18 ~~(h)~~ (g) "Mental retardation" means substantial limitations in present
19 functioning that is manifested during the period from birth to age 15
20 years and is characterized by significantly subaverage intellectual func-
21 tioning existing concurrently with deficits in adaptive behavior including
22 related limitations in two or more of the following applicable adaptive
23 skill areas: Communication, self-care, home living, social skills, commu-
24 nity use, self-direction, health and safety, functional academics, leisure
25 and work.

26 ~~(i)~~ (h) "Secretary" means the secretary of social and rehabilitation
27 services.

28 (i) "Special care persons" means individuals who are severely men-
29 tally retarded and who have ~~multiple disabilities~~

30 Sec. 2. K.S.A. 1995 Supp. 39-1804 is hereby amended to read as
31 follows: 39-1804. (a) Except as otherwise specifically provided in this act
32 and subject to appropriations of federal and state funds, the secretary,
33 after consultation with representatives of community developmental dis-
34 ability organizations, community service providers, families and consumer
35 advocates, shall implement and administer the provisions of the devel-
36 opmental disabilities reform act in accordance with the following policies.
37 Persons with developmental disabilities shall:

38 (1) Be provided assistance to obtain food, housing, clothing and med-
39 ical care; protection from abuse, neglect and exploitation; and a range of
40 necessary community services and supports which assist in the determi-
41 nation of individual needs from available community service providers
42 selected by the persons with developmental disabilities or their guardians;
43 and

1 (2) receive assistance in determining their needs; be provided infor-
 2 mation about all service options available to meet those needs; have co-
 3 ordination of services delivered; be assisted and supported in living with
 4 their families, or independently; be assisted in finding transportation to
 5 support access to the community; and receive individually planned ha-
 6 bilitation, education, training, employment and recreation subject to sup-
 7 ports and services available in the community of their choice.

8 (b) To accomplish the policies set forth in subsection (a), the secre-
 9 tary, subject to the provisions of appropriation acts, shall annually propose
 10 and implement a plan including, but not limited to, financing thereof
 11 which shall: (1) Provide for an organized network of community services
 12 a comprehensive array of community service options for persons with
 13 developmental disabilities; (2) maximize the availability of federal re-
 14 sources to supplement state and local funding for such systems; and (3)
 15 reduce reliance on separate, segregated settings in institutions or the com-
 16 munity for persons with developmental disabilities.

17 (c) The secretary shall report to the legislature the number of persons
 18 with developmental disabilities eligible to receive community services and
 19 shall make a progress report on the implementation of the annual plans
 20 and the progress made to accomplish a comprehensive community serv-
 21 ices system for persons with developmental disabilities.

22 (d) The secretary shall prepare and submit budget estimates for the
 23 department of social and rehabilitation services to the division of the
 24 budget and the legislature and shall establish and implement policies and
 25 procedures within the programs and activities of the department so that
 26 funds for state-level programs and activities for persons who are devel-
 27 opmentally disabled are allocated between services delivered in institu-
 28 tions and community services.

29 (e) Subject to the provisions of this act and appropriation acts, the
 30 secretary shall administer and disburse funds directly to each community
 31 developmental disability organization service provider for the coordina-
 32 tion and provision of community services.

33 (f) The secretary shall establish procedures and systems to evaluate
 34 the results and outcomes of the implementation of this act to assure the
 35 attainment of maximum quality and efficient delivery of community serv-
 36 ices.

37 Sec. 3. K.S.A. 1995 Supp. 39-1805 is hereby amended to read as
 38 follows: 39-1805. In addition to any other power and duty prescribed by
 39 law, and subject to appropriations, a community developmental disability
 40 organization shall have the power and duty to:

41 (a) Directly or by subcontract, serve as a single point of application
 42 or referral for services, and assist all persons with a developmental disa-
 43 bility to have access to and an opportunity to participate in community

or through a regional entity that does not provide community services and is independent of all community providers providing services within that region.

for services provided by community developmental disability organization service providers and non-community developmental disability organization service providers within various regions of the state and commensurate with local conditions.

1 services, except in those circumstances in which the secretary determines,
2 subject to an immediate hearing before the district court located in the
3 county in which the person with a developmental disability resides, partic-
4 ipation in community services is not the appropriate placement for such
5 person because such person is presently likely to cause harm to self or
6 others;

7 (b) provide either directly or by subcontract, services to persons with
8 a developmental disability, including, but not limited to, eligibility deter-
9 mination, *if requested*; explanation of available services and service pro-
10 viders; ~~ease management services; if requested~~; assistance in establishing
11 new providers, if requested; and advocacy for participation in community
12 services;

13 (c) organize a council of community members, consumers or their
14 family members or guardians, and community service providers, com-
15 posed of a majority of consumers or their family members or guardians
16 who shall meet not less than quarterly to address systems issues, includ-
17 ing, but not limited to, planning and implementation of services; and
18 develop and implement a method by which consumer complaints, inter-
19 agency and other intrasystem disputes are resolved;

20 (d) provide, directly or by subcontract, information about ~~affiliate and~~
21 ~~referral~~ *all community service providers* services to persons with a de-
22 velopmental disability whose particular needs can be met in the com-
23 munity or through government; and

24 (e) ensure that ~~affiliates~~ *community service providers* have the option
25 to review *all* referrals and waiting lists on a periodic basis to contact
26 potential consumers *directly* with information concerning their services.

27 Sec. 4. K.S.A. 1995 Supp. 39-1806 is hereby amended to read as
28 follows: 39-1806. To carry out the provisions of this act, the secretary shall
29 establish after consultation with representatives of community develop-
30 mental disability organizations ~~and affiliates thereof~~, *community service*
31 *providers*, and families and consumer advocates;

32 (a) A system of adequate and reasonable funding or reimbursement
33 for the delivery of community services that:

34 (1) For persons moving from institutions into the community, directs
35 funding to follow in an amount not less than that which is required to
36 reimburse community service providers for services as set forth in such
37 person's plan for transfer from the institution to community services in-
38 cluding expenses of relocation and initiation of services;

39 (2) consolidates federal and state funding sources;

40 (3) requires an independent, professional review of the rate struc-
41 tures on a biennial basis resulting in a recommendation to the legislature
42 regarding rate adjustments) Such recommendation shall be adequate to

43 support: (A) A system of employee compensation competitive with local

1 conditions; (B) training and technical support to attract and retain qual-
 2 ified employees; (C) a quality assurance process which is responsive to
 3 consumers' needs and which maintains the standards of quality service;
 4 (D) risk management and insurance costs; and (E) program management
 5 and coordination responsibilities;

6 (b) a *consumer-responsive* system of quality assurance, *independent*
 7 *of a community service provider*, based on *uniformly applied* standards
 8 set out in rules and regulations adopted by the secretary which insures
 9 effective service delivery, fiscal accountability and networking coopera-
 10 tion and which allows community service providers to present evidence
 11 of attainment of national accreditation or compliance with state or federal
 12 laws or rules and regulations, or both, to indicate compliance with such
 13 standards; and

14 (c) a system of contracting *directly with community service providers*
 15 that:

16 (1) Authorizes open and equitable negotiation between contracting
 17 parties or their designated agent or agents *and accomplishes the parent's*
 18 *or guardian's choice of providers*;

19 (2) authorizes mediation by an independent entity chosen by the par-
 20 ties to the contract in the event of contract disputes and if mediation is
 21 not completed prior to the end of any existing contract, authorizes an
 22 extension of time of such existing contract or entering into a temporary
 23 contract;

24 (3) requires achievement and maintenance of community services
 25 standards by community service providers;

26 (4) includes compensation for community services which meet the
 27 individualized needs of persons with developmental disabilities for com-
 28 munity services; and

29 (5) requires community developmental disability organizations to
 30 ~~contract with those affiliates from whom a person with a developmental~~
 31 ~~disability chooses services; provides for services for special care persons~~
 32 ~~through contracts by the department of social and rehabilitation services~~
 33 ~~directly with nonprofit 501(c)(3) entities which provide services for spe-~~
 34 ~~cial care persons at a special reimbursement rate established by the sec-~~
 35 ~~retary for the care of such persons.~~

36 Sec. 5. K.S.A. 1995 Supp. 39-1807 is hereby amended to read as
 37 follows: 39-1807. (a) Whenever the secretary finds a community service
 38 provider or a community developmental disability organization has failed
 39 to comply with the requirements, standards or rules and regulations es-
 40 tablished pursuant to this act or any other provision of law, the secretary
 41 shall have the power to inspect and review the operations of the com-
 42 munity service provider or community developmental disability organi-
 43 zation and identify deficiencies. The secretary and such community serv-

or through a regional entity that does not provide community services and is independent of all community providers providing services within that region

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1 ice provider or community developmental disability organization shall
 2 choose an independent entity to mediate any dispute regarding the se-
 3 cretary's finding that such community service provider or community de-
 4 velopmental disability organization has failed to comply with such
 5 requirements, standards or rules and regulations and the secretary's iden-
 6 tified deficiencies. If such mediation is not able to resolve any such dis-
 7 pute and the secretary finds that the community service provider or com-
 8 munity developmental disability organization has still failed to comply
 9 with such requirements, standards or rules and regulations, the secretary
 10 shall require a written plan of correction. If, after notice and an oppor-
 11 tunity for hearing pursuant to the Kansas administrative procedure act,
 12 the secretary finds the community service provider or community devel-
 13 opmental disability organization has failed to carry out the plan of cor-
 14 rection within 30 days of the submission of the plan of correction, the
 15 secretary may assess a civil penalty in an amount not to exceed \$125 per
 16 day for each day the provider or organization has failed to carry out the
 17 plan of correction or, in the case of a community developmental disability
 18 organization, the secretary may in lieu of such penalty remove such or-
 19 ganization as a community developmental disability organization under
 20 this act. The secretary may extend the time in which the provider or
 21 organization has to comply with the plan of correction for good cause.

22 (b) The secretary may require the community service provider to
 23 maintain consumers in place until alternative community services can be
 24 secured with reasonable compensation for actual costs and to remove the
 25 designation as community service provider, except that in the event the
 26 secretary makes written findings of fact that there appears to be a situation
 27 involving imminent danger to the health, safety or welfare of the person
 28 with a developmental disability unless immediate action is taken, the sec-
 29 retary may issue an emergency order. Such emergency order shall be
 30 subject to the same procedures under K.S.A. 77-536 and amendments
 31 thereto. Upon entry of such an emergency order, the secretary shall
 32 promptly notify the community service provider subject to the order: (1)
 33 The content of the order; (2) the reasons therefor; and (3) that upon
 34 written request within 15 days after service of the order, the matter will
 35 be set for a hearing which shall be conducted in accordance with the
 36 provisions of the Kansas administrative procedure act. If no hearing is
 37 requested and none is ordered by the secretary, the order will remain in
 38 effect until it is modified or vacated by the secretary. If a hearing is
 39 requested or ordered, the secretary, after notice of and opportunity for
 40 hearing to the community service provider subject to the order, by written
 41 findings of fact and conclusions of law, shall vacate, modify or make per-
 42 manent the order.

(43) ~~New Sec. 6. (a) The community group home loan guarantee fund is~~

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① hereby established in the state treasury which shall be for the purpose of
 ② facilitating the financing, construction, acquisition and rehabilitation of
 ③ community group homes for the mentally retarded for specialized hous-
 ④ ing and care of persons who are special care persons and have been dis-
 ⑤ placed because of institutional closure and for the refinancing thereof.
 ⑥ The secretary of social and rehabilitation services shall administer the
 ⑦ community group home loan guarantee fund. All expenditures from the
 ⑧ community group home loan guarantee fund shall be made in accordance
 ⑨ with appropriations acts upon warrants of the director of accounts and
 ⑩ reports issued pursuant to vouchers approved by the secretary of social
 ⑪ and rehabilitation services or by a person or persons designated by the
 ⑫ secretary.

⑬ (b) Subject to the provisions of subsection (a), the secretary of social
 ⑭ and rehabilitation services shall pay from the community group home loan
 ⑮ guarantee fund to the lender, the amounts for any loan which is in default,
 ⑯ which was made to a nonprofit entity which is exempt from income tax-
 ⑰ ation under the provisions of section 501(c)(3) of the federal internal
 ⑱ revenue code, which was made for the financing, construction, acquisition
 ⑲ or rehabilitation of community group homes for the mentally retarded
 ⑳ for specialized housing and care of persons who are special care persons
 ㉑ and have been displaced because of institutional closure and which re-
 ㉒ ceived prior approval by the secretary of social and rehabilitation services.
 ㉓ The total principal amount guaranteed under this section shall not exceed
 ㉔ \$5,000,000 for any one nonprofit entity which is exempt from income
 ㉕ taxation under the provisions of section 501(c)(3) of the federal internal
 ㉖ revenue code.

㉗ (c) For the purpose of facilitating the refinancing of the loans guar-
 ㉘ anteed by the secretary of social and rehabilitation services in accordance
 ㉙ with subsection (b), the secretary of social and rehabilitation services is
 ㉚ hereby authorized to enter into an agreement with the financial institu-
 ㉛ tions participating in such refinancing to guarantee the repayment of any
 ㉜ amounts which are in default on any loans obtained for such refinancing.
 ㉝ Such agreement may contain such terms and conditions as the secretary
 ㉞ of social and rehabilitation services may deem appropriate to carry out
 ㉟ the purposes of this section.

㊱ Sec. 7.0 K.S.A. 1995 Supp. 39-1803, 39-1804, 39-1805, 39-1806 and
 39-1807 are hereby repealed.

㊲ Sec. 8.1 This act shall take effect and be in force from and after its
 publication in the statute book.

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Testimony Supporting Senate Bill 727

By: Michael C. Strouse, Ph.D.

Executive Director of Community Living Opportunities, Inc.

Testimony regarding S. B. 727 has been previously submitted at a prior subcommittee hearing. It is also attached to this summary.

The Kansas Developmental Disabilities Reform Act of 1995 was intended to empower persons with developmental disabilities and their families to freely choose among services they need from service providers that they trust within their region. Proposed SRS regulations and contracts to implement the Act, however, have caused substantial concern and division among many family members, community providers, and Community Developmental Disabilities Organizations (called CDDOs). These regulations and contracts cause concerning conflicts of interest for CDDOs who also provide services and empower CDDOs in ways that may significantly reduce fair competition for limited funds.

The interpretations of the Act create significant conflicts of interest and unfair competition by empowering CDDOs to:

- Control the presentation of information to customers as the single point of entry without substantial protections that information was presented fairly or without allowing opportunities for competing providers to directly present service options to persons interested in services.
- Complete Developmental Disability Profile reimbursement assessments on persons served by themselves and their competitors that directly translate into reimbursement for themselves and their competitors.
- Evaluate the quality of their competitors services to determine if these services are appropriate, approve or impose action plans to address issues that they raise, and potentially, make available these data to customers seeking community services to help them decide which provider to select.
- Finally, SRS proposes to ask CDDOs to administrate the funding for themselves and others instead of continuing the current system where SRS directly contracts with and reimburses community providers across the state.

*Senate Ways & Means
March 12, 1996
Attachment 4*

Proposed Compromise Solution

After substantial discussion with many community providers and INTERHAB, I suggest the following compromise solution:

- Establish a Commission of Community Providers (comprised of CDDO and non-CDDO service providers, and family members receiving services from CDDOs, non-CDDOs) to study the implementation of regulations regarding the Act. This body would be charged to make recommendations to change the Act or SRS regulations, if necessary, to assure fair competition among community providers and protect against possible conflicts of interest for CDDO/providers. Additionally, the commission would make other recommendations to the appropriate Senate/House Committee to better achieve the intent behind the Act.
- To insert a technical change into the Act this year that clarifies that SRS should directly contract with each CDDO for the coordination of community services in their region and directly contract with each community provider for the provision of community services. This technical language change would result in SRS contracting directly with providers for community services and would not make CDDOs managed care entities for themselves and others.
 - CDDO providers as well as non-CDDO providers did not envision that the Act would be interpreted to make CDDOs managed care entities managing funding for themselves and others.
 - SRS is performing this function effectively and efficiently now with a minimum number of people.
 - Further, in addition to the obvious conflict of interest problems previously described for a CDDO to manage funds for themselves and its competition, it is estimated to be far more costly for CDDOs to manage funds as compared to the current system where SRS manages these funds. Further, the funding to pay for the additional infrastructure for each CDDO would come from funding currently available for direct services.
 - Additionally, it may pose serious hardships for community providers by increasing the time between billing for services and receiving funds due to the extra layer of infrastructure (Community providers would bill CDDOs who would bill EDS or Blue Cross and Blue Shield instead of simply directly billing as they do now).
 - Finally, CDDOs are accepting substantial liability by performing this intermediate step.
- While the other previously stated concerns listed in bullets on page one are important, we will work with SRS and CDDOs to develop protections against potential abuse this year and will report back through the commission next year.

Testimony in Support of Senate Bill 727 as Amended

By: Michael C. Strouse, Ph.D.
Community Living Opportunities, Inc.
March 5, 1996

Most Kansans welcomed the enactment of the Developmental Disabilities Reform Act of 1995 because it promised freedom of choice, improved access to services, and fairness. During the course of developing the regulations to implement the Act, however, it has become increasingly clear to many consumers, family members, service providers and advocates, that relatively simple, yet critically important changes need to be made to avert potentially damaging effects on the quality and quantity of choices of persons with developmental disabilities and to get the most out of the money available for services.

Senate Bill 727, along with its amendments, proposes technical and other simple changes that would alleviate a lot of the negative consequences by strengthening the Developmental Disabilities Reform Act in ways to ensure that the intent of the act is clear to better guide the development of appropriate regulations to enact this legislation to benefit persons with developmental disabilities and their families. We are seeking your support of Senate Bill 727 as amended.

- Among other things, the DD Reform Act in its current form supported by the proposed SRS regulations empowers a single provider in each of 28 regions of the state over their competitors in ways that create serious conflicts of interest. These designated providers, called Community Developmental Disabilities Organizations (or CDDOs) will control all funding, determine reimbursement, control access to information provided to customers, negotiate with SRS, and evaluate themselves and their competitors' services. SRS desires CDDOs to perform these functions to reduce government and privatize state functions, but having a provider perform such "managed-care" functions for itself and others contradicts a primary principle of managed-care (i.e., managed-care functions should be performed independent of service provision).
- Reducing government makes sense and such efforts are consistent with the goals of Kansas legislative and executive leadership. Managed-care is a reality. But important principles of managed-care must be observed or exclusive regional provider monopolies will be fostered. Unless something is done now, healthy competition in a "true" managed care environment will either not exist or will be seriously damaged--and this will result in reduced functional choices, diminished quality, and increased costs (which are typically associated with monopolies). It will also substantially hinder efforts to close or reduce the census of state institutions.

- Further, aside from the previously stated concerns regarding the conflicts of interest of one provider providing managed-care functions for itself and its competition for limited funds, we simply do not need to create 28 different managed-care infrastructures that range considerably in size, scope, and geography.
 - Twenty-eight regions are far too many and this many regions will cause potentially serious and needless problems with portability of services and funds for persons with disabilities and families who move from one county to another outside of their region. Further, the high number of regions is highly bureaucratic and complex for providers like CLO who provide services to persons in multiple CDDO catchment areas. CLO and other similar programs must duplicate administrative efforts for each CDDO catchment area in which it provides services.
 - While CDDOs generally have substantial experience as service providers, they have little experience in providing managed-care functions. Yet, SRS proposed regulations delegate the responsibility to establish policies to guide these functions to each individual CDDO. This will produce policies and procedures that vary substantially across the 28 catchment areas. This too will be needlessly confusing for families who move from, for example, Overland Park, to Kansas City or Lawrence, Kansas or from Topeka to Lawrence, Kansas. Additionally, such a diversity of policies and procedures will further duplicate and bog-down administrative efforts for providers such as CLO who provide services across multiple service areas.
 - These 28 infrastructures and the duplicity of efforts it causes families and providers like CLO who provide services across regions will be needlessly costly, diverting substantial money away from limited funds for direct services. Currently, SRS determines and administrates financial resources for all community programs in Kansas using only a few staff positions. All service providers (several hundred) now contract directly with SRS and bill weekly electronically to EDS (soon to be Blue Cross and Blue Shield) to receive quick payment for services with minimal effort. If CDDOs determine and administrate funds for themselves and others as is suggested by the Act, it adds additional bureaucracy and complication to an otherwise smooth and simple billing and contract process. The result is that actuarial data will be come more disjointed and more difficult to assimilate for planning purposes and the possibility of harmful funding delays substantially increases.

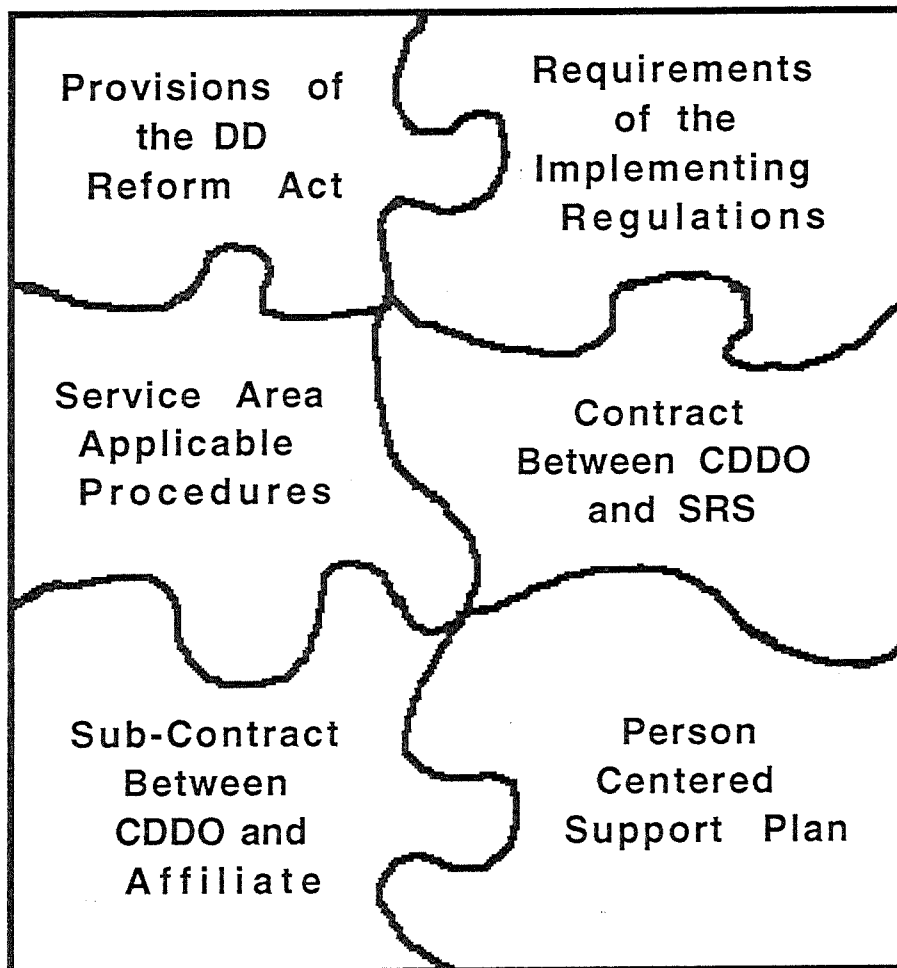
S.B. 727:

- Strengthens empowerment and choice for persons with developmental disabilities and family members in selecting services and providers;
- Assures fair opportunities for all community service providers to educate customers about their services (while maintaining a "one-stop" place to learn about service options in a region);
- Allows for managed-care functions to be provided by entities that do not also provide services and reduces the possibility of other potentially serious conflicts of interest

(such as the CDDO evaluating other providers or approving admissions for itself and other providers in their region).

- Additionally, this bill directs SRS to establish a higher "tier" reimbursement rate for all persons who **exhibit serious medical, behavioral, or adaptive disabilities or conditions that require specialized or additional supports to maintain a safe and adequate community lifestyle.** This will assist community programs meet the needs of persons whose community status is at substantial risk and will speed-up efforts to serve persons with serious needs currently within state institutions (by reducing the number of individualized rates to negotiate with SRS).
- While the proposed revisions to the DD Reform Act are simple and few, the direction is clear. We must:
 - Work to implement sound principles of managed-care across a sensible number of regions;
 - Establish a level playing field for all competition for limited funds;
 - Make persons with developmental disabilities true "customers" and improve the quantity and quality of their choices; and
 - Make all community services maximally responsive and flexible to maximize the limited funds available.
- As a side note, many managed-care and regional assessment and service brokerage initiatives are currently underway within SRS to accomplish similar privatization goals with children and other populations. Ironically, each of SRS's managed-care strategies and service regions are significantly different. **It might be fiscally and programatically responsible to consider the merits of establishing some guiding principles for these initiatives and determine the possibility of combining some of these managed-care efforts to reduce confusion for families, providers, and SRS staff, and reduce administrative infrastructure costs.**
- Please support S.B. 727 as it is amended as well as all efforts to implement fair managed-care methods consistent with demonstrated effective managed-care principles. Please note that this bill is not intended to reduce the duties that a CDDO is already doing (including serving as a point of entry for services in a region). The managed-care functions and other functions that will pose a conflict of interest for one provider to perform for themselves and others have not yet been implemented. Rather, we are attempting to make simple, technical changes to assure that sound regulations are developed that are in keeping with the spirit of the Act and specifically, to make sure that critical conflicts of interest are not implemented that drive a wedge through community service providers who are and are not CDDOs. We do not support a "wait and see" approach to determine the effect of creating these 28 infrastructures. Once these different infrastructures are in place, it will be very difficult and damaging to remove them and may be equally damaging to healthy competition.

Interlocking Parts of DD Reform



*Senate Ways & Means
March 12, 1996
Attachment 5*

Response to Certain Concerns About the Developmental Disabilities Reform Act

Prepared March 12, 1996

History

The Developmental Disabilities Reform Act was created by a team of concerned legislators, advocates, service providers, consumers, and selected staff from the Department of Social and Rehabilitation Services. Their goal was to develop an organized system of service delivery for individuals who have developmental disabilities. Prior to passage of this Act there was no organized system. Consumers and families had to repeatedly call multiple entities in an attempt to find services that they would qualify for and/or a provider who was willing to provide those services. Before Developmental Disabilities Reform no one was *required* to provide services. There were long waiting lists. Persons with developmental disabilities were frequently left with no alternative but a state institution.

The Reform Act was passed last year with the intent to change the system: to develop local resources; to make local agencies (called Community Developmental Disabilities Organizations or CDDOs) responsible for meeting the needs of citizens from their communities. Under the Act, SRS must negotiate a contract each year with CDDOs. Under terms of the contract the Secretary must establish tiered rates for reimbursement, the conditions of the contract, and the expected outcomes. The Reform Act took effect January 1, 1996. While much has been done to initiate the programs created by Reform it is still early and many parts of Reform still need to be put in place.

Late in August, 1996, the Developmental Disabilities Steering Committee was created. This group consisted of many individuals who labored long and hard to create the Developmental Disabilities Reform Act with a few additional individuals. Individuals and organizations who were present include: Ginger Clubine, Tarc; Sherry Diel, Kansas Advocacy and Protective Services; Josie Torrez, Families Together; Shannon Jones, Statewide Independent Living Centers of Kansas; Tom Laing, InterHab; Gina McDonald, Kansas Association of Centers for Independent Living; Jane Rhys, Kansas Council on Developmental Disabilities; and Greg Wintle, Designs for Living. Parents, consumers, CDDOs, and Affiliates were all represented. The purpose of this group was to develop the regulations to implement the Developmental Disabilities Reform Act. This group met ten times from August through November and went through multiple drafts before the final regulations were agreed upon. Prior to the Steering Committee meetings SRS staff held six town meetings across Kansas to obtain input on components of the regulations. In December and January six more town meetings were held to explain proposed regulations and inform the public of deadlines for testimony.

Both the creation of the Act and the development of the accompanying regulations were done with input from all affected entities. Every attempt was made to obtain input from as many stakeholders as possible.

Concerns

Recently, several individuals have raised specific concerns about the authority of CDDOs under the Act and SRS's draft regulations. What follows is an attempt to address some of those concerns.

1. **Concern: Can a CDDOs control a person's access to information about providers in that area, and thereby steer persons only to itself or selected providers?**

No - the CDDO must fairly distribute information about all providers and their availability to everyone seeking services. Failure to do so can subject the CDDO to severe penalties.

2. **Concern: Can a CDDOs prevent a person with a developmental disability from choosing their own provider?**

No - if the provider is properly licensed and is willing to enter into and live up to its contract with the CDDO, the CDDO must honor the person's choice as to who is to be their provider.

3. **Concern: Can a CDDO refuse to contract with a provider, or make terms so burdensome that a provider will, in effect, be shut out?**

No - the only reasons for a CDDO refusing to contract with a provider are: 1) the provider refuses to abide by the service area-wide procedures intended to establish an organized system or 2) the provider demands a greater reimbursement rate than SRS has set for that tiered level of service. In addition, the CDDO may not impose on any affiliate conditions greater than those required by the Secretary in the contract or by regulations.

4. **Concern: Can a CDDO dictate who can provide case management services?**

No - any individuals qualified to perform case management services may become a case manager. Only the person being served can choose who they want to be their case manager.

5. **Concern: Can a CDDOs unfairly evaluate its own or selected provider's services, and thereby favor some providers over others?**

No - the CDDOs must establish procedures for quality assurance that arranges for independent on-site inspection of all providers, including itself. A CDDO can not inspect itself. Failure to fairly establish or implement quality assurance procedures that are uniformly applicable to all providers can subject the CDDO to severe penalties.

6. **Concern: Can a CDDO delay payments to an affiliate provider, thereby putting that provider at financial risk?**

No - CDDOs are paid by SRS through a special purpose grant in block amounts quarterly in advance. This means the CDDO may have funds readily available to pay providers upon billing, thereby avoiding the state payment system and its delays. A similar system is being requested for HCBS waiver funding. Specific reimbursement procedures and deadlines may be established in the CDDO's and affiliate provider's contract which they negotiate between themselves. All affiliates have access to dispute resolution procedures should payments not be timely.

7. **Concern: Can CDDOs prevent admissions to community-based group homes, ICF/MRs, or state institutions just because the CDDO dislikes those types of service providers.**

No - a CDDO's "gatekeeping" responsibility and authority extends only to screening admissions to ICF/MRs. CDDOs must screen all admissions to ICF/MRs and state institutions solely for the purpose of determining if community services could meet the person's needs. No "gatekeeping" authority extends to community based group homes. It is the individual's right to choose their provider and provider setting whether they select a group home or an ICF/MR placement or admission to a state institution after the CDDOs screening.

8. **Concern: Do SRS's draft regulations unfairly discriminate against affiliate providers by providing only for negotiated contracts between SRS and CDDOs?**

No - the Reform Act established the concept of local service area and the two level system of contracting. The local level contracting between CDDOs and affiliate providers enhances consideration of indigenous knowledge of their needs and capabilities. A single, state level system of contracting would not be able to take advantage of this specialized knowledge. It would be impossible for state officers to become familiar with each individual served and each service provider. Developmental Disabilities Reform makes services to individuals with developmental disabilities sensitive to the real needs of the persons being served. It does this through the persons being served being able to choose their own service provider, for those providers being able to negotiate at the local level for the types of services needed as well as the reimbursement rate that maximizes both the level of care and numbers of persons served. Thus the newly created system is not a "one size fits all" system that inevitably prefers large, uniform looking providers that meet state contract requirements but not necessarily the wishes of the individuals receiving services.

9. **Concern: Do SRS's draft regulations prevent affiliate providers from being able to receive county mill-levy funds?**

No - SRS's regulations have nothing to do with county mill-levy funds. The state laws that permit the Boards of County Commissioners to establish CDDOs also permits those County Commissioners to establish a mill-levy tax to support the administrative costs of operating the CDDO. Affiliate providers can negotiate with their CDDO to receive up to 100% of the tiered level of reimbursement SRS provides to the CDDO. The county mill-levy funds take care of the CDDOs overhead expenses so that none of those costs need to come out of services funding.

10. **Concern: Have SRS's draft regulations created too many CDDOs, thereby creating too many different sets of administrative procedures?**

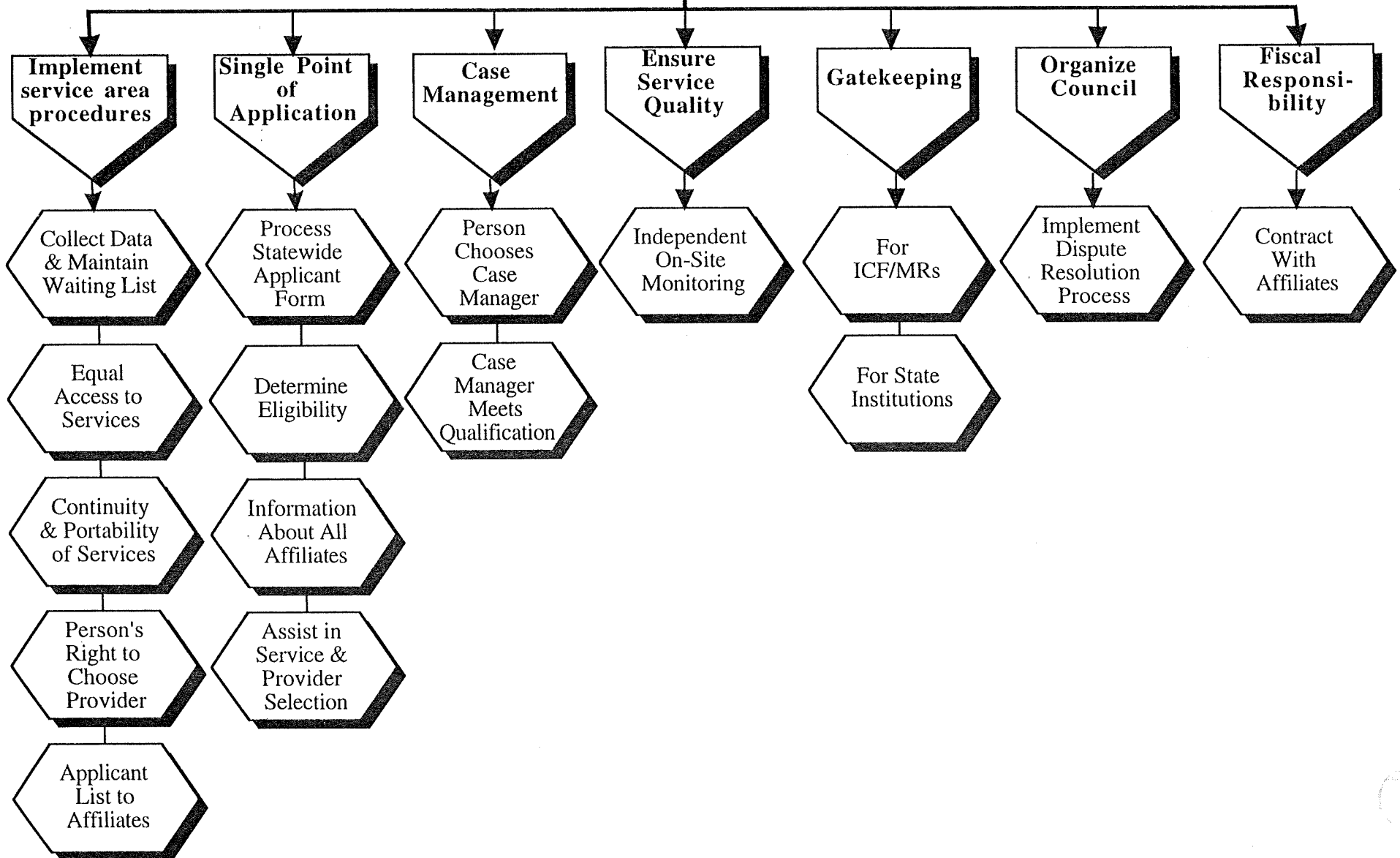
No - the number of CDDOs is not dictated by SRS. The establishment of a CDDO must always originate from the local Board of County Commissioners. This is due to laws which existed before the Reform Act was passed and was not changed by the Act.

The variance in the procedures which may be established by the local CDDOs was intended by the Reform Act. It encourages local control and the local opportunity to develop solutions to meet local problems. Since the end results of services need to be similar, efficient and effective procedures developed in one area will likely spread to other areas over time and inefficient and ineffective procedures will thereby be replaced. In the meantime, the state recognizes that it does not have any one answer that fits every problem and every community.

CDDO RESPONSIBILITIES

Adopt Service Area Applicable Procedures

Subject To:
Council Consent, Public Comment, and Commissioner Approval



TESTIMONY REGARDING SB 727

Presented to Senate Ways and Means
March 12, 1996

Kansas Department of Social and Rehabilitation Services
Rochelle Chronister, Secretary

Presented by:
Rochelle Chronister

*Senate Ways & Means
March 12, 1996
Attachment 6*

Mr. Chairman, members of the Committee, thank you for this opportunity to appear. My name is Rochelle Chronister, Secretary of the Kansas Department of Social and Rehabilitation Services.

SRS opposes SB 727 because we believe this bill is premature in that implementation of the DD Reform Act began only on January 1, 1996. The Act provides for an organized network of community services statewide to be managed at the local level by Community Developmental Disability Organizations (CDDOs).

For the first time, under the Act, persons with developmental disabilities and their families will:

- Be assured at least one agency (CDDOs) in every area of the state must be responsive to their need for services;
- Have a "choice" of who provides them services, including case management, within the reimbursement structure established by SRS;
- See uniform application and eligibility standards for services statewide;
- Have portability of services from any service area of the state to another as well as within service areas;
- Be informed of all providers currently available in their area as well as their option to have services "self directed"; and
- Be assured quality assurance is provided by someone who does not work for the agency providing the direct services.

We believe people of good will dedicated to serving persons with developmental disabilities and their families can and will provide the best services within available resources when they cooperate at the local level. I hope you will agree with the House Select Committee on Developmental Disabilities and allow DD Reform to be implemented for a year before determining adjustments such as contemplated by SB 727 should be made.



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March 12, 1996

TO: Senate Ways and Means Committee
FROM: Tom Laing, InterHab
RE: Senate Bill 727 *Laing*

Summary of Testimony to the Subcommittee:

In InterHab's testimony (attached) to the subcommittee, we opposed consideration of significant amendments to the DD Reform Act, as proposed in Senate Bill 727, until there was a full review of rules, regulations and contracts related to the Act.

We maintain that position, and urge that you recommend consideration of the DD Reform Act for interim review.

Key Issue Identified by Proponents:

There is one issue identified by the proponents upon which we would welcome the Committee's clarification.

This has not been discussed with our entire membership; however, among those I visited, there was general support for the attached amendment to clarify the state's interpretation of the law and thereby reduce some significant concerns among providers.

The issue has to do with clarifying the state's plans for maintaining their current financial relationship with the various non-CDDO providers.

Rationale for Proposed Amendment:

1. In discussions of the DD Reform Act, there was no stated or implicit intent that the state should sever its funding relationships with Affiliate providers.

2. The language in the act (Section 2 of SB 727, below) was intended to direct the Secretary to fund community services and the coordination of community services. The Act was never discussed as a vehicle by which the state would direct all funds to CDDO's.

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Attachment 7*

(more)
Testimony to Senate Ways and Means Committee
Regarding SB 727
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page two

Rationale (continued):

"Sec. 2, (e) Subject to the provisions of this act and appropriation acts, the secretary shall administer and disburse funds to each community developmental disability organization for the coordination and provision of community services."

-- The DD Reform Act

3. Our proposed language to amend the Act, as noted below, clarifies that intent:

*"Sec. 2, (e) Subject to the provisions of this act and appropriation acts, the secretary shall administer and disburse funds to each community developmental disability organization for the coordination ~~and~~ ~~provision~~ of community services **and to each community service provider for the provision of community services.**"*

We urge that the Committee consider adoption of this amendment, thereby addressing the key concern of proponents and clarifying this issue for the State.

InterHab



The Resource Network
for Kansans with Disabilities

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March 6, 1996

**TO: Senate Ways and Means Subcommittee on
MR/DD Issues**

**Senator Steve Morris, Chair
Senator Jerry Karr
Senator Jerry Moran**

**FROM: Tom Laing, Executive Director
InterHab: The Resource Network for
Kansans with Disabilities**

On behalf of InterHab I am here to comment on Senate Bill 727 and address its impact on the community services network in Kansas.

Without greater clarification, InterHab cannot support this bill; however, if the committee chooses to amend the Act this year, we will work with you to find language to resolve the issues which have been raised in these hearings.

Regarding the DD Reform Act Rules and Regulations:

As you have heard, many of the principal objections raised by proponents to the bill are of a rulemaking or regulatory nature. The membership of InterHab shares many of those same concerns.

The initial enthusiasm for DD Reform has been chilled somewhat by the rule making process.

Overreaching, overly prescriptive and costly ... the draft rules and regulations extend the impact of the DD Reform Act in ways that none of the proponents envisioned last year.

As was noted in testimony yesterday, the SRS regulatory scheme for DD Reform has taken the form of a managed care model for the community MR/DD system, changing the entire landscape of the community system, in some ways good and in some ways bad.

However, the amendments to the law as proposed in SB 727 will not, by themselves, change this fundamental policy initiative.

The state intends to promote a managed care model in the MRDD community, and will do so unless you specifically prohibit managed care as a service delivery model.

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By merely amending the DD Reform Act without specific operational guidance for the state to follow, you will only succeed in requiring the state and the community network to undergo another exhaustive rewrite of the rules and regulations, after which you may find yourselves here again next session hearing that the same concerns remain unresolved.

I add this note of caution, if this subcommittee hopes to make substantial amendments to the Act, it will require an equally substantial commitment of time and energy to secure the consensus needed to assure passage.

Meanwhile, time is critical.

Contracts for the balance of this fiscal year are already signed. Contract negotiations will soon be underway for FY 97.

Those who receive services in the community as well as organizations (CDDO's and Affiliates) which provide those services need a resolution on these issues. The worst case scenario would be to go another year with no clearly defined approach to the implementation of the Act.

If resolution can not be readily attained, we ask that these issues be assigned for study during the interim for consideration in the 1997 session.

Summary:

Significant problems and concerns exist regarding the implementing rules and regulations of the DD Reform Act.

In only nine weeks (since the DD Reform Act went into effect), none of us who have been involved in the process can precisely predict the eventual outcomes of the implementation process; therefore it is likely we cannot precisely define the remedies.

Thank you for your consideration of these points.