Approved: _	March 5, 2009
	Date

MINUTES OF THE HOUSE AGING AND LONG TERM CARE COMMITTEE

The meeting was called to order by Chairman Bob Bethell at 3:30 p.m. on March 3, 2009, in Room 711 of the Docking State Office Building.

All members were present except:

Representative Don Hill- excused

Committee staff present:

Norm Furse, Office of the Revisor of Statutes Doug Taylor, Office of the Revisor of Statutes Kelly Navinsky-Wenzl, Kansas Legislative Research Department Terri Weber, Kansas Legislative Research Department Judith Holliday, Committee Assistant

Conferees appearing before the committee:

Beth Oakes, Vice President Community Planning and Resources, United Way of the Plains Rocky Nichols, Executive Director, Disability Rights Center of Kansas/Big Tent Coalition Michelle Eastman, Vice President Communications, Rainbows United Maury Thompson, Executive Director, Johnson County Developmental Supports Don Jordan, Secretary, Social and Rehabilitative Services Kathy Greenlee, Secretary, Kansas Department on Aging Matt Fletcher, Associate Director, InterHab

Beth Oakes, Vice President Community Planning and Resources, United Way of the Plains, spoke to the Committee about the United Way 2-1-1 telephone number. This permanent number was assigned by the Federal Communications Commission in 2000 to be used only for community information and referral nationwide

Ms. Oakes demonstrated using the Internet to access the 2-1-1 website and explained the various services available. She stated that if a service is needed but not on the list, to email or call and information on that particular service will be added within 24 hours. She provided a handout to Committee members on the 2-1-1 program. (Attachment 1)

The 2-1-1 number will benefit people during and after a disaster such as a tornado, flood, fire, terrorist attack or other tragedy because the information system is already set up and one call can connect people with needed human services. Another benefit to having the 2-1-1 system is that it reserves the 911 system for life and death emergencies.

<u>Hearing on HB 2094 - Appropriations for FY 2010 through FY 2014, home and community based services under DD, PD, FE, TBI and autism medicaid waivers and Tiny-K programs.</u>

Chairman Bethell called the Committee's attention to several handouts from the Legislative Research Department. The green sheet was an overview of Medicaid Home and Community Based Services (HCBS) Waivers (<u>Attachment 2</u>); the blue sheet explained the appropriations contained in <u>HB 2094</u> for each department from FY 2010 through FY 2013 (<u>Attachment 3</u>); and the goldenrod sheet is a remake of the original report from the Children's Initiative Fund given at a previous meeting. (<u>Attachment 4</u>)

Chairman Bethell asked Norm Furse of the Revisor's Office to explain the content of HB 2094.

Rocky Nichols, Executive Director, Disability Rights Center of Kansas/Big Tent Coalition, testified as a proponent of <u>HB 2094</u>. (<u>Attachment 5</u>) Mr. Nichols stated that the Big Tent Coalition endorses the elimination of all Home and Community Based Services wait lists, supports the expansion of community capacity, and supports increasing direct care worker pay. He further stated that the stimulus money Kansas will receive for Medicaid will pay for the programs, stimulate the economy, and provide new jobs in Kansas.

Michelle Eastman, Vice President Communications, Rainbows United, urged the Committee to support

CONTINUATION SHEET

Minutes of the House Aging And Long Term Care Committee at 3:30 p.m. on March 3, 2009, in Room 711 of the Docking State Office Building.

the *tiny-K* program. (Brochure on file in Room 161-W) Ms. Eastman explained that the *tiny-K* program serves 6,600 infants and toddlers, providing sixteen needed service to families at no cost.

Maury Thompson, Executive Director, Johnson County Developmental Supports, testified in support of <u>HB 2094</u>. (Attachment 6) Mr. Thompson addressed the need to address the waiting lists and rate increases in combination in order to expand community services for persons with developmental disabilities (DD).

Mr. Thompson stated that 3,800 children and adults with DD are waiting to receive services. The State has maintained a DD waiting list for over twelve years, with the typical wait time at more than four years. He told the Committee that it costs more than \$150,000 a year to keep one person with DD institutionalized, but less than \$40,000 a year to care for that same individual in the community. He stated that during the current fiscal year, funds appropriated covered fewer than forty individuals from the statewide waiting list of more than 3,000.

Mr. Thompson testified that the legislature has an opportunity to make citizens with DD a priority as we begin to receive Medicaid dollars from the stimulus package. He referenced an editorial in the <u>Kansas City Star</u> regarding the absence of plans by the governor to free up money to help the nearly 4,000 Kansans with mental retardation and developmental disabilities currently on waiting lists.

Don Jordan, Secretary, Social and Rehabilitation Services (SRS), spoke in favor of <u>HB 2094</u>. (<u>Attachment 7</u>) The bill would provide funding for four of the Home and Community Based Services (HCBS) Waivers administered by SRS: Physical Disability (PD) Waiver, Traumatic Brain Injury (TBI) Waiver, Autism Waiver and the Mental Retardation/Developmental Disability Waiver (MR/DD). It would allocate, over a period of four years, specific amounts of state general funds to reduce, eliminate or forestall creation of waiting lists for the waivers.

One provision of the bill addresses annual rate increases for reimbursement to providers. Included would be wages paid to community direct care staff funded through the reimbursement rates. SRS plans to conduct reviews of providers to ensure the workforce is receiving adequate wages in order to retain quality direct care staff.

Kathy Greenlee, Secretary, Kansas Department on Aging, testified in support of <u>HB 2094</u>. (<u>Attachment 8</u>) She restated her agency's commitment to quality of life, independence and choice for senior citizens. KDOA has administered the home and community based services frail elderly (HCBS/FE) waiver since 1997 and there was a waiting list only once, for a period of two years. The governor has fully funded the HCBS/FE waiver in order to keep seniors from waiting for services. She stated the waivers are a good investment to make for the people of Kansas.

Matt Fletcher, Associate Director, InterHab, spoke in support of <u>HB 2094</u>. (<u>Attachment 9</u>) Mr. Fletcher testified that this bill represents a great opportunity by maximizing federal dollars, generating millions in economic stimulus for each legislative district, and creating a significant number of new jobs, beginning in 2010.

Mr. Fletcher addressed the disparity of wages for direct care workers compared to the State's own direct care workers, a difference of almost \$3.60 per hour. Mr. Fletcher stated that direct care jobs are among the fastest growing in the nation, and over the next decade more direct care jobs will be created than any other occupation in the entire U.S. economy, especially among low-wage workers.

Another benefit from <u>HB 2094</u> will be for family members who previously had to stay home to care for their family member but can now rejoin the workforce. Most importantly, nearly 4,000 lives will be positively impacted by being removed from the State's waiting lists.

Attached to Mr. Fletcher's testimony were charts illustrating the economic impact to Kansas communities and the number of new jobs for Kansas communities from DD funds in **HB 2094**.

CONTINUATION SHEET

Minutes of the House Aging And Long Term Care Committee at 3:30 p.m. on March 3, 2009, in Room 711 of the Docking State Office Building.

Chairman Bethell deferred the remaining conferees' testimony until the Aging and Long Term Care Committee meeting on Thursday, March 5.

The meeting was adjourned at 5:00 p.m.

Three-digit 2-1-1 phone number makes it easier to find help or volunteer

United Way

What is United Way 2-1-1 of Kansas?

- 2-1-1 is an easy-to-remember telephone number that connects people with important community services and volunteer opportunities.
- In 2000 the FCC assigned the 2-1-1 phone number to be used only for community information and referral nationwide.
- United Way 2-1-1 of Kansas serves most of Kansas through United Way of the Plains in Wichita. Kansas City area 2-1-1 service is provided by United Way of Greater Kansas City.

What types of services does United Way 2-1-1 help callers find?

- Resources for basic human needs: food banks, clothing closets, shelters, rent assistance, utility assistance.
- Support for older individuals and persons with disabilities: adult day care, congregate meals, Meals on Wheels, respite care, home health care, transportation, homemaker services.
- Support for children, youth and families: child care, after-school programs, Head Start, family resource centers, summer camps and recreation programs, mentoring, tutoring, protective services.
- Physical and mental health resources: health insurance programs, Medicaid and Medicare, maternal health, Children's Health Insurance Program, medical information lines, crisis intervention services, support groups, counseling, drug and alcohol intervention and rehabilitation.
- Employment supports: job training, transportation assistance, education programs.

What are the hours of operation?

Statewide service is provided 24 hours a day,
 7 days a week.

How does it benefit Kansans? Benefits to Users:

- 2-1-1 is an easy way to find help or give help.
- One call gives people access to 1000s of resources in Kansas communities.
- All 2-1-1 calls are confidential and free (cell phone calls that reach 2-1-1 may have usual cell charges).

Benefits as a Crisis Tool:

 During and after a tornado, flood, terrorist attack or other tragedy, 2-1-1 is a ready-touse number. There is no need to wait for an information system to be set up when a crisis occurs.

 One call can connect people to needed human services during a crisis. One call also quickly connects volunteers to local needs in a local tragedy.

 Since 2-1-1 is a permanent number, people can find help whether their needs arise a week or several months after a tragedy.

Community Benefits:

- 2-1-1 strengthens the community by uniting people in the area who want to help with those who need help.
- 2-1-1 maintains the integrity of the 9-1-1 system—saving that vital community service for life and death emergencies.

How is the service funded?

- Sponsors: Kansas Health Foundation, Capitol Federal, Cessna Aircraft Company, Preferred Health Systems
- Inkind support: Royal Caribbean International
- · General contributions to United Way

In a local crisis:
After a tornado,
flood or other crisis:
people can find help
more easily with
2-1-1.

Year-round needs: With one number people can find needed services or places to volunteer.



www.211kansas.org

HOUSE AGING & LONG TERM CARE DATE: 3/3/09 ATTACHMENT: /

Overview of Medicaid Home and Community Based Services Waivers

Waiver	Physically Disabled	Developmental Disabilities	Technology Assisted	Traumatic Brain Injury	Autism
Institutional Equivalent	Nursing Facility	Intermediate Care Facility for Persons with Mental Retardation (ICF/MR)	Acute Care Hospital	Rehabilitation Facility	State Mental Health Hospital Services
Eligibility	• Age 16-64	• Age 5 or over	Children under 18	• Age 16-55	 Time of diagnosis through 5 years of age
	Disabled by Social Security Adm.	Meet the definition of mental retardation or developmental disability	Medically fragile dependent on intensive technology	 Have traumatic non-degenerative brain injury resulting in residual deficits and disabilities 	Diagnosis of autism spectrum disorder or PDD-NOS
Point of Entry	Centers for Independent Living or Designated Home Health Agencies	Community Developmental Disability Organizations	Private Agencies	Centers for Independent Living or Designated Home Health Agencies	Application sent to Autism Program Manager
Financial Eligibility Rules	Only the individual's personal income and resources are considered	Only the individual's personal income and resources are considered	Only the individual's personal income and resources are considered*	Only the individual's personal income and resources are considered	Only the individual's personal income and resources are considered
	• For individuals under age 18 parents' income and resources are not counted	• For individuals under age 18 parents' income and resources are not counted	For individuals under age 18 parents' income and resources are not counted	For individuals under age 18 parents' income and resources are not counted	Parents' income and resources are no counted
	• Income over \$727 per month must be contributed towards the cost of care	• Income over \$727 per month must be contributed towards the cost of care	• Income over \$727 per month must be contributed towards the cost of care	• Income over \$727 per month must be contributed towards the cost of care	Income over \$727 per month must be contributed towards the cost of care
Services/	•Indep. Living Counseling	Residential Services	Respite Care	Personal Services	Consultive clinical and therapeutic services
Supports	Personal Services	Day Services	Medical Equip. & Supplies	Assistive Services	Intensive individual supports
	Assistive Services	Medical Alert	Case Management	Rehabilitation Services	Parent support/training
1001		Wellness Monitoring		Trans. Living Skills	Family Adjustment counseling
		• Family/Indiv. Supports			Respite services
		• Environ./Adaptive Equip.			

*Note: The parents' personal income and resources are not counted for eligibility but are counted for the purpose of determining a family participation fee.

Appropriations Contained in House Bill 2094

		FY 2010		FY 2011		FY 2012		FY 2013
Department on Aging			72			4 000 000		NI/A
HCBS/FE Waiting List Priority	\$	1,600,000	\$	1,600,000	\$	1,600,000		N/A
HCBS/FE Community Capacity Expansion		500,000		500,000		500,000		N/A
Subtotal	_\$_	2,100,000	\$	2,100,000	_\$	2,100,000		N/A
Department of Social and Rehabilitation Services	•	40.000.000	Φ.	40,000,000	œ.	10 000 000	C	15,000,000
HCBS/DD Waiting List Priority	\$	10,000,000	\$	10,000,000	\$	10,000,000	\$	
HCBS/DD Community Capacity Expansion		15,000,000		10,000,000		10,000,000	<u> </u>	10,000,000
Subtotal	\$	25,000,000	_\$_	20,000,000	\$	20,000,000	\$	25,000,000
	æ	2 470 020	æ	3,470,030	\$	3,470,030		N/A
HCBS/PD Waiting List Priority	\$	3,470,030	\$	2,000,000	Ψ	2,000,000		N/A
HCBS/PD Community Capacity Expansion	<u> </u>	2,000,000 5,470,030	\$	5,470,030	-\$	5,470,030		N/A
Subtotal	\$_	5,470,030	Ψ_	3,470,030	Ψ_	3,470,030		13/7 (
HCBS/TBI Waiting List Priority	\$	800,000	\$	800,000	\$	800,000		N/A
HCBS/TBI Community Capacity Expansion	-	200,000	eneron.	200,000		200,000		N/A
Subtotal	\$	1,000,000	\$	1,000,000	-\$	1,000,000		N/A
Autism Waiting List Priority	\$	937,446	\$	937,446	\$	937,446		N/A
Autism Walting List Flority		,						
Department of Health and Environment								
Infants and Toddlers Program (Tiny K)	\$	1,100,000	\$	1,100,000	\$	1,100,000		N/A
Total	<u> </u>	35,607,476	-\$	30,607,476	-\$	30,607,476	-\$	25,000,000
Total	—	35,607,476	=	30,007,470	<u> </u>		<u></u>	
Weiting Lint Driggity	\$	16,807,476	\$	16,807,476	\$	16,807,476	\$	15,000,000
Waiting List Priority	Ψ	17,700,000	7	12,700,000	92	12,700,000	ni ni	10,000,000
Community Capacity Expansion Infants and Toddlers Program		1,100,000		1,100,000		1,100,000		N/A
Illiants and Toddlers Flogram		.,,		c. P. apostropa. Particularity of		60 20 	:- <u></u>	
Total	\$	35,607,476	\$	30,607,476	\$	30,607,476	\$	25,000,000

HCBS/FE = Home and Community Based Services for the Frail Elderly

HCBS/DD = Home and Community Based Services for individuals with Developmental Disabilities

HCBS/PD = Home and Community Based Services for individuals with Physical Disabilities

HCBS/TBI = Home and Community Based Services for individuals with a Tramatic Brain Injury

Children's Initiatives Fund

FY 2008 - FY 2010

	Actual FY 2008	Legislative Approved FY 2009	Gov. Rec. FY 2009	Gov. Rec. FY 2010
Department of Health and Environment				
Healthy Start/Home Visitor	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000
Infants and Toddlers Program (Tiny K)	1,200,000	5,700,000	5,700,000	5,700,000
Smoking Cessation/Prevention Program				
Grants	1,000,000	1,000,000	1,000,000	1,000,000
PKU/Hemophilia	208,000	208,000	208,000	•
Newborn Hearing Aid Loaner Program		50,000	50,000	50,000
SIDS Network Grant		. 75,000	75,000	75,000
Newborn Screening	-	2,221,556	2,221,556	2,202,682
Subtotal - KDHE	\$ 2,658,000	\$ 9,504,556	\$ 9,504,556	\$ 9,277,682
Juvenile Justice Authority				
Juvenile Prevention Program Grants	\$ 5,531,308	\$ 5,579,530	\$ 5,579,530	\$ 5,579,530
Juvenile Graduated Sanctions Grants	3,468,692	3,420,470	3,420,470	\$ 9,000,000
Subtotal - JJA	\$ 9,000,000	\$ 9,000,000	\$ 9,000,000	\$ 9,000,000
Department of Social and Rehabilitation S		6 544 000	6 544 000	D 544 000
Children's Cabinet Accountability Fund	\$ 541,802	\$ 541,802	\$ 541,802	\$ 541,802
Children's Mental Health Initiative	3,800,000 5,000,000	3,800,000 5,000,000	3,800,000 5,000,000	3,800,000 5,000,000
Family Centered System of Care Therapeutic Preschool	1,000,000	5,000,000	3,000,000	3,000,000
Child Care Services	1,400,000	1,400,000	1,400,000	1,400,000
Community Services - Child Welfare	3,298,500	3,208,938	3,136,934	.,,
Smart Start Kansas - Children's Cabinet	8,986,263	8,443,279	8,443,279	8,442,190
Family Preservation	3,151,403	3,241,062	3,313,066	3,241,062
School Violence Prevention	227,392	-	-	•
Attendant Care for Independent Living				
(ACIL)	50,000	-	-	- 44 000 400
Early Childhood Block Grants		11,100,000	11,100,000	11,098,462
Pre-K Pilot	5,000,000	2 452 770	3,452,779	3,452,779
Early Head Start	1,600,000 500,000	3,452,779 500,000	500,000	500,000
Child Care Quality Initiative Subtotal - SRS	\$34,555,360	\$40,687,860	\$40,687,860	\$ 37,476,295
Kansas Health Policy Authority				
HealthWave	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ -
Medical Assistance	3,000,000	3,000,000	3,000,000	
Immunization Outreach	277,876	500,000	500,000	
Subtotal - KHPA	\$ 5,277,876	\$ 5,500,000	\$ 5,500,000	\$ -
Department of Education				
Reading and Vision Research	\$ 300,000	\$ 200,000	\$ 100,000	\$ -
Four Year Old at Risk/General State Aid	-	100,000	100,000	
Parents as Teachers		7,539,500	7,539,500	7,539,500
Pre-K Pilot		5,000,000	5,000,000	5,000,000
Subtotal - Dept. of Ed.	\$ 300,000	\$12,839,500	\$12,739,500	\$ 12,539,500
University of Kansas Medical Center				
Tele-Kid Health Care Link	\$ 252,723	\$ -	\$ 394	\$ -
TOTAL	\$ 52,043,959	\$77,531,916	\$77,432,310	\$ 68,293,477
		Legislative	the second his	
	Actual FY 2008	Approved FY 2009	Gov. Rec. FY 2009	Gov. Rec. FY 2010
Beginning Balance	\$ 743,550	\$12,747,981	\$12,747,981	\$ 600,515
Plus: Other Income*	300,233			
State General Fund Transfer	-		and the second of the	
Children's Initiatives Reserve Fund	825,952	825,952	825,952	825,952
KEY Fund Transfer In	62,922,205	64,458,892	64,458,892	66,885,884
Total Available	\$64,791,940	\$78,032,825	\$78,032,825	\$ 68,312,351
Less: Expenditures	52,043,959	77,531,916	77,432,310	68,293,477

^{*} Other Income includes released encumbrances, recoveries and reimbursements.

\$12,747,981 \$ 500,909

600,515

Transfer Out to KEY Fund

ENDING BALANCE

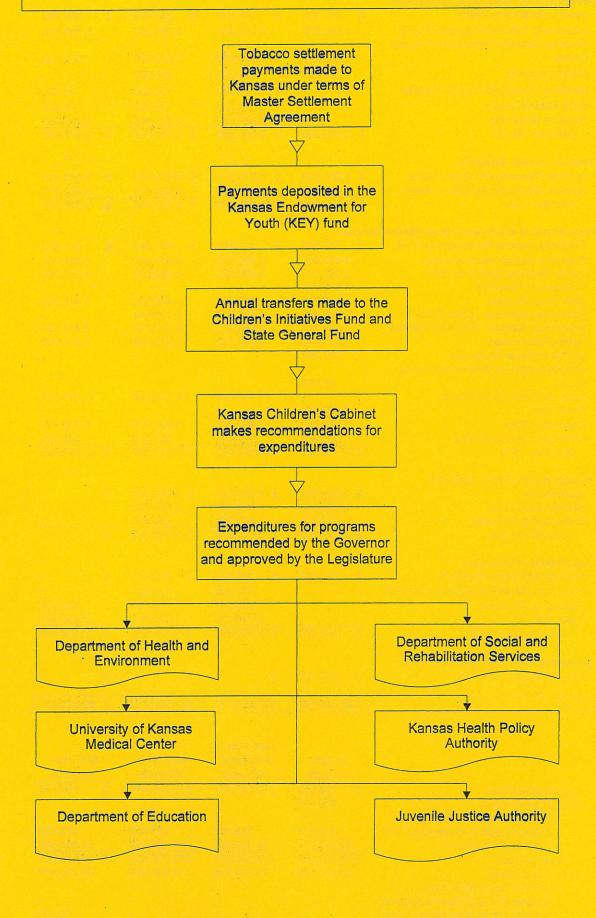
Transfer Out to Children's Initiatives
Transfer Out to State General Fund

^{**} The 2006 Legislature established the Children's Initiatives Reserve Fund (CIRF) and transferred any unencumbered balance in the Children's Initiatives Fund (CIF) on June 30, 2007 to the CIRF. On July 1, 2007, 25 percent of the balance in the CIRF was transferred to the CIF. On July 1, 2008, one third of the remaining balance of the CIRF is to be transferred to the CIF. On July 1, 2009, 50 percent of the remaining balance of the CIRF is to be transferred to the CIF. On July 1, 2010, all remaining funds in the CIRF are to be transferred to the CIF.

^{***} The Governor's recommendation for FY 2010 transfers funding of \$9.2 million from the Kansas Endowment for Youth (KEY) Fund to the State General Fund. In addition, the Governor's recommendation transfers \$385,540 from the Kansas Endowment for Youth Fund to the Attorney General. \$500,000 was transferred from the KEY fund to the Attorney General in FY 2008.

a) Expenditures shifted to the Medical Programs Fee Fund.

Flow of Tobacco Settlement Bollars in Kansas





Testimony in Support of Invisible Kansans bill (HB 2094) – Focusing on \$440 Million new Medicaid money in the Stimulus Bill Rocky Nichols, Budget Chair, Big Tent Coalition; Executive Director, Disability Rights Center Kansas

Chairman Bethell and members of the Committee. My name is Rocky Nichols. I am the Executive Director of the Disability Rights Center of Kansas (DRC). DRC is a public-interest advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. I am here providing testimony on behalf of the Big Tent Coalition of Kansas (BTC). BTC is an alliance of people with disabilities as well as senior and disability advocacy groups.

BTC has endorsed the concept contained in HB 2094 with the adoption of the BTC's 2009 Budget Priorities (see attached). Specifically, BTC has endorsed the elimination of the all HCBS waiting lists through a 3-year appropriations plan and expanding community capacity while increasing direct care worker pay.

What I am here to focus on is how the \$440 million of new Medicaid funding in the recently enacted economic stimulus bill can help provide this committee with the revenue it needs to fund the Invisible Kansans bill and to fund other needed senior and disability community-based programs.

Specifically, we are calling on Kansas policymakers to use the new \$440 million in Medicaid funds in the stimulus bill to protect, preserve and promote human services:

- Eliminate all HCBS Waiting Lists with a multi-year plan
- Expand community capacity and increase wages for direct-care workers (which are embarrassingly low) to stimulate the Kansas economy
- Fund community-based service needs in the Big Tent Coalition's 2009 Budget Priorities (see attached)
- Restore previously planned FY 2010 cuts to disability and senior services

Use the Stimulus dollars to stimulate the Kansas Medicaid program, which will in-turn stimulate the Kansas economy. The Medicaid program is a powerful economic engine. You should use it by spending the \$440 million on Medicaid expenditures. According to Families USA, a national leader in understanding the intricacies of Medicaid, if Kansas spent the \$440 million on Medicaid program, it would have a HUGE economic impact. Spending the \$440 on the Medicaid program would:

- \$1.35 Billion in new business activity in Kansas
- 12,263 new jobs in Kansas
- \$462 Million in salaries and wages in Kansas

Restrictions on the \$440 million in enhanced Medicaid funding in stimulus bill -

BTC would also offer serious and sober words of caution to this Committee and Kansas policymakers regarding the financial requirements which accompany the Medicaid portion of the recently enacted federal stimulus bill. These requirements will, we believe appropriately, require Kansas to spend the funding on qualifying Medicaid services and to not simply use it to fill the budget deficit and credit it to the state's 7.5% ending balance reserve requirements. The Invisible Kansans bill is clearly a qualified expenditure for the enhanced federal Medicaid funding.

For Kansas to get the \$440 million in enhanced Medicaid dollars, it must:

- 1. NOT use the extra Medicaid money to fill the budget shortfall, and
- 2. Restore all Medicaid Programs including HCBS Waivers to their eligibility standards, methodologies and procedures as of July 1, 2008.

#1 – Kansas CANNOT use the extra Medicaid money to fill the budget deficit: Section 5001(f)(3) of the stimulus law clearly says that a State is <u>not</u> eligible for an increase in its Medicaid payments "if <u>any</u> amounts attributable (directly or <u>indirectly</u>) to such increase are deposited or credited into any <u>reserve</u> or rainy day fund of the State."

Some policymakers have said publically that the increase in Medicaid would be used to balance the budget and ensure that the state is able to have state general fund (SGF) dollars in its "ending balance reserve fund." This would be in violation of the federal law. Kansas law (KSA 75-6702) requires that the state have at least 7.5% of state general fund dollars in "reserve." Because Kansas has basically no SGF ending balance reserve right now, by definition, the state would not be eligible to receive the enhanced Medicaid funds UNLESS they spent the new dollars on eligible expenditures. Using the money to shore up the budget deficit would be, at a minimum, "indirectly" crediting the money to the SGF ending balance reserve, in violation of federal law.

#2 - Restore Medicaid Programs to July 1, 2008, Status

In order to get the \$440 million in increased Medicaid payments, Kansas MUST use its existing dollars to restore Medicaid programs, including Home and Community Based Services (HCBS) Waivers, to their "eligibility standards, methodologies or procedures" as of July 1, 2008. Kansas must do this BEFORE they can get the new money.

- This means EVERY change to Kansas' Medicaid program (including Waivers) made since July 1, 2008, must be revisited and justified to make absolutely certain this requirement is met. We don't want to put the \$440 million at risk.
 - Does the Physical Disability (PD) Waiver "freeze" violate this provision? Do other Kansas budget cuts to Medicaid violate this provision?
 - The state must take a very conservative approach and restore previous cuts or risk losing the \$440 million.
- Because the state is getting \$440 in new Medicaid dollars that must be spent on Medicaid and cannot be "directly or indirectly" diverted to the SGF ending balance reserve, the state must also look at restoring previous Medicaid cuts and expanding Medicaid services.
 - The Big Tent Coalition has many qualifying Medicaid eligible expenditures where these dollars can be used (see attached).

We thank you for considering our testimony on behalf of the Big Tent Coalition. I would stand for questions.

Big Tent Coalition - 2009 Budget Priorities Protect, Preserve and Promote ...

Protect Essential Services

Do NOT cut Medicaid or other services for seniors or persons with disabilities

- Do not curtail access to MediKan program (a cut proposed by KHPA/SRS)
- Do not implement a preferred drug list/formulary and prior authorization for life-saving mental health prescriptions (a cut proposed by KHPA)
- Do not reduce CMHC grants (a \$5 million cut proposed by SRS)
- Do not limit General Assistance to 18 mos. (\$2.8 million cut proposed by SRS)
- Do not reduce HCBS Waiver rates by 1.5% (\$2.4 million cut proposed by SRS; \$215,000 cut proposed by KDOA) raises have been granted to direct care workers with these dollars.
- Do not cut the Senior Care Act (\$1.4 million cut proposed by KDOA)
- Do not cut Senior Nutritional Services (\$614,000 cut proposed by KDOA)

Preserve Current Community-Based Services

Fund needed appropriations to preserve current community-based services

 Provide Vital Funding for HCBS Programs to Carryout the Current Service Levels approved by the 2008 Legislature (PD Waiver FY '09 = \$5.5 million; DD Waiver FY '09 = \$1.9 million; DD Waiver FY 2010 = \$2.2 million; FE Waiver = \$697K; Senior Care Act = \$665K)

Promote Independence, Freedom and Respect

Eliminate all HCBS Waiting Lists with a 3-year Appropriation (like 2008 HB 2761)

- Build on the excellent work product of the 2008 House (HB 2761, which passed 118-4) and the 2007 Legislative Budget Committee Report.
- Provide funding to continue the elimination of Home and Community Based Services (HCBS)
 Waiver Waiting Lists for Physical Disability (PD), Frail Elderly (FE), Traumatic Brain Injury
 (TBI), and Childrens' mental health (SED) Waiver. Additionally, we support elimination of
 any waiting lists for the Autism Waiver.
- Fund the recommendations of the Legislative Budget Committee Report to eliminate the HCBS Developmental Disability (DD) Waiting List over a three-year period \$10m SGF in FY 2010 and FY 2011 and \$15m in FY 2012.

Expand Community Capacity and Improve Direct Care Worker Pay

- Fund the recommendations of the Legislative Budget Committee Report to expand community capacity with the DD Waiver and create parity between community wages and state institutional wages over a three-year period \$15 m SGF in 2010; \$10m in 2011 & 2012.
- Provide at least a 3% rate increase for all other HCBS Waivers (approx \$3.5 million)
- Create rate parity for Personal Attendant Services (PAS) across all Waivers \$1.1 m SGF
- Carry-out the promised study of Direct Care Workers needs on the other HCBS Waivers.

Support State Agency Appropriations requests for funding which promotes the independence, freedom and respect of seniors and people with disabilities.



March 3, 2009

To: Aging and Long Term Care Committee

From: Maury L. Thompson, Executive Director Johnson County Developmental Supports

RE: House Bill 2094

Chairman Bethell and members of the Committee, I appreciate the opportunity to speak with you today. As you receive testimony on HB 2094 over the next few days, you will hear about the persistent challenges faced by all Developmental Disability (DD) providers to hire and retain qualified workers, and the ongoing struggles of direct support staff to maintain a decent standard of living when paid substandard wages. Even more compelling is the personal impact of the long wait for services on people with DD and their families. All this, of course, is information you have heard for years.

Although the origins of such testimony can be traced back many, many years, for brevity's sake I'll recount events beginning in December of 2006. During the fall of that year, the Legislative Budget Committee (LBC), after conducting an interim study of the state of the community DD system, recommended that the Legislature establish a phased-in effort to address the most commonly understood needs in the community: the waiting lists and the underfinanced reimbursement rates for the Home and Community-Based Services (HCBS) MR/DD waiver. The Committee's recommendations were consistent with a simple but critical premise of quality-based (Q-Base) community expansion:

Waiting lists and rate increases must be addressed in combination if the State and its community partners are to significantly expand community services for persons with developmental disabilities.

Last legislative session, the House overwhelming approved legislation mirroring the LBC's recommendations. Unfortunately, the support ended there. In the final hours of the Omnibus session, the legislation was approved, but without any appropriations to address the needs of those on waiting lists or the underfinanced reimbursement rates. However, yet another committee was established to review the state of the community system.

Since that time, many have added their voices to the "chorus" of those calling for an end to the wait for needed services and an end to the continual weakening of the community DD system. From Editorial Boards to Boards of County Commissioners to Boards of Directors, communities have, like you, heard the growing pleas for assistance from families struggling year after year with little hope that services will be provided anytime soon. They have all called for the legislature to eliminate the wait for needed services, and to create community capacity.

And the numbers are staggering:

- At this moment, approximately 3,800 children and adults with DD in Kansas are waiting to receive help.
- The State of Kansas has maintained "waiting lists" for those with DD for over 12 years! These lists have grown by around 300 individuals every year since 1996. The current typical wait to enter DD services in Kansas is more than four years!
- Kansas has an excellent, well-established network of community-based disability service providers who offer vital direct care as a quality alternative to costly institutional settings. When one looks at the numbers, community-based services are truly a bargain: It currently costs taxpayers more than \$150,000 a year to keep a person with DD institutionalized. It costs less than \$40,000 a year, on average, to care for these same individuals in our communities.

Since the fall of 2006 the crisis has grown, the pleas for assistance have grown, and the associated struggles for families have grown.

But, the budgetary recommendations from the statehouse have *not* grown. The Governor's Budget Recommendations for SRS for fiscal year 2010 include no recommendations to address the waiting list, or recommendations for capacity expansion. And, as of last week, DD organizations received notice that funds used to serve individuals were in fact being reduced - immediately. This only compounded the stark reality that during the current fiscal year, funds were appropriated to serve fewer than forty (40) individuals from the statewide waiting list of more than 3,000.

Rate increases during the past three years have fared no better, averaging a 2.5% increase. Neither of these appropriations comes close to meeting the recommendations of the LBC. It must be understood that failure to address the Budget Committee's recommendations will continue to perpetuate a system where individuals and families with critical needs are told there simply is no help, and those fortunate ones receiving services see the system continue to weaken.

As has been the case for years, there will be many obstacles to implementing a solution, the chief one being our current national recession. Many will insist this is not the time to add money to the DD system. They will argue the cost is too high, and we just can't do it this year.

Unfortunately, for those with DD and their families, this has become an all too familiar refrain – in good economic times, as well as bad. I have been around long enough to see, year after year, the needs of those with DD never quite making the list of session priorities.

However, the legislature has an opportunity; as we begin to receive millions of additional Medicaid dollars, to make our citizens with DD a priority. The Editorial Board of the <u>Kansas City Star</u> stated earlier this week, "The governor's plans for stimulus spending so far don't specifically include freeing up money to help the nearly 4,000 Kansans with mental retardation and developmental disabilities who are on waiting lists for services."

"That's a flaw. Kansas has made its most vulnerable citizens a low priority for too long."



Don Jordan, Secretary

House Aging and Long Term Care Committee

March 3, 2009

HB 2094 – Home & Community
Based Services Waivers

Don Jordan, Secretary

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



HB 2094 – Home & Community Based Services Waivers

House Aging and Long Term Care Committee

March 3, 2009

Chairman Bethell and members of the committee, I am Don Jordan, Secretary of SRS. Thank you for the opportunity to appear before you today to discuss House Bill 2094. This bill provides funding for four of the Home and Community Based Services Waivers which are administered by SRS. Those waivers are the HCBS-MR/DD waiver, which serves individuals with mental retardation or developmental disabilities, the HCBS –PD waiver which serves individuals with physical disabilities, the HCBS-TBI waiver which serves individuals who have sustained a traumatic brain injury and the autism waiver, which serves children with a diagnosis of autism or an autism spectrum disorder. House Bill 2094 allocates, over a period of four years, specific amounts of state general funds to these waivers to reduce, eliminate or forestall the creation of waiting lists for the waivers. The bill also includes state general fund amounts specific to each waiver listed for the expressed purpose of increasing rates of payments to service providers.

Background

Home and community based service waivers allow the state of Kansas to meet the needs of individuals with disabilities while they continue to live in their homes and communities. Home and community based waivers, also known as 1915(c) waivers, are allowed under section 1915(c) of the Social Security Act and give states the flexibility to meet the states individual needs. These programs are funded through a combination of state and federal funding, approximately 60 percent federal and 40 percent state funds.

The Numbers

Earlier this legislative session I presented you with information regarding the different waivers that are administered by SRS. Today's testimony will focus on the impact of HB 2094 on each of the waiver programs referenced in the bill.

Physical Disability Waiver

The bill allocates an additional \$16.4 million in state general funds to serve new individuals and increase reimbursement rates. The HCBS PD Waiver initiated a waiting list on December 1, 2008.

- The waiver is currently serving 7,300 individuals.
- As of February 1, 2009 there were 346 individuals waiting to receive services.

With the proposed funding, the PD Waiver is projected to serve the following number of additional individuals over the next 3 years:

Page 2 of 5



- 309 in FY 2010
- 266 in FY 2011
- 244 in FY 2012

The proposed funding for increased reimbursement rates for providers is \$2 million for each of the next three years. The PD Waiver received funding for a rate increase for services provided in FY 2008. At that time the legislature approved \$826,799 SGF, which was utilized to increase the rate for personal services from \$11.94 per hour to \$12.29 per hour. SRS will work with stakeholders to determine how to allocate the rate increases across the services provided.

Traumatic Brain Injury Waiver

For the TBI Waiver, the bill allows for an additional \$2.4 million in state general funding which would allow individuals to continue to be served without waiting for services and provide for rate increases.

The TBI Waiver is currently serving 239 individuals

With the proposed funding, the TBI Waiver is projected to serve the following number of additional individuals over the next 3 years:

- 54 persons in FY 2010
- 48 persons in FY 2011
- 42 persons in FY 2012

The TBI Waiver received \$318,282 SGF in FY 2008 for an increase in reimbursement rates. After meeting with stakeholders a decision was made to utilize the funding for an increase in rates for the therapies which are provided through the waiver. At that time, needed Physical Therapy, Occupational Therapy, and Speech Therapies were not being provided due to low reimbursement rates. The rate was increased from \$50 per visit, to \$69.84 per visit. This was the first rate increase that the waiver had received since it was implemented in 1991.

This bill proposes an additional \$200,000 each year for the next three years for an increase in reimbursement rates. SRS will work with stakeholders to determine the best way to allocate the rate increases across the services provided.

Autism Waiver

HB 2094 allows for an additional \$2.8 million in state general funds to serve individuals on the autism waiver waiting list.

- The waiver is currently serving 45 children
- Approximately 200 children are waiting for services



With additional funding, the Autism Waiver would be able to serve an additional:

- 100 children in FY 2010
- 96 children in FY 2011
- 75 children in FY 2012

Mental Retardation/Developmental Disability Waiver

The DD waiver would receive an increase of \$90 million SGF over the next four years through this bill. This funding would be utilized to serve persons waiting for services and concurrent annual rates increases for providers.

- The MR/DD Waiver is currently serving 7,433 individuals.
- There are 1,631 individuals waiting for services who currently receive no services.
- There are 839 individuals who are "under served" meaning they are receiving one or more services through the waiver but are requesting additional services.

An example of the underserved population would be an individual who is receiving day services and in home family supports who requests to move to a residential setting (which has a higher cost). In this case, they would be placed on the waiting list until funding became available. Another example could also be a young person graduating from high school who may be in need of day services but must wait until funding becomes available.

With the proposed funding, the combined (unserved and underserved) waiting list would decrease as indicated below:

- 805 in FY 2010
- 649 in FY 2011
- 553 in FY 2012
- 870 in FY 2013

The funding would also allow the waiver to serve approximately 1,881 additional unserved and an additional 996 underserved individuals over the next 3 years which includes an estimated 280 new persons applying for services each year.

This bill also allows for annual rate increases for providers. For the MR/DD Waiver there were no rate increases provided from FY 2000 to FY 2005. Beginning in FY 2006 the following amounts were allocated for rate increases:

- FY 2006 \$3.0 million SGF or \$7.5 million AF
- FY 2007 \$4.172 million SGF or \$10.5 million AF
- FY 2008 \$5.5 million SGF or \$19.1 million AF

The funding that was allocated for an increase in reimbursement rates was utilized to increase the rates paid to providers of services provided through the MR/DD waiver. SRS met with stakeholders to determine the percent of funding to be allocated to each service. The biannual rate studies were also utilized to inform this process.



In FY 2008, the average monthly cost of serving an individual in the community was \$3,277. The proposed rate increases in HB 2094 would increase the average monthly cost for serving an individual in the community as indicated below:

- FY 2010 \$3,772
- FY 2011 \$4,127
- FY 2012 \$4,408
- FY 2013 \$4,711

Systems Transformation

SRS received a federal Systems Transformation Grant (\$1.8 million for 5 years) which allows the agency to take a comprehensive look at the payment methodology structure for the waivers, eligibility/level of care determinations, and individual budgeting/self direction. We are in the third year of the grant. One project that is being developed with this grant is the study of the funding and payment methodology structure for the waivers. SRS has a contract in place to begin this study which is targeted for completion by September 1, 2009. The contractor will conduct a study that will identify the costs of providing services to individuals (aging and disabled) in community settings with a focus on "independence, productivity and community living". The contractor will also identify any capacity issues the system faces and make recommendations regarding the funding and payment methodology structure in Kansas. This information will give SRS a greater understanding of the needs of providers and the needed reimbursement rates to serve individuals in the community.

SRS understands that the provision of quality services to individuals is reliant on our local community service providers. As a result, consideration should be given to the wages paid to community direct care staff funded through reimbursement rates to providers. SRS supports a systematic review of compensation for HCBS direct care workers and a multi-year plan to expand community capacity through rate adjustments and to continue to work towards the elimination of waiting lists for services. As part of any multi-year plan, SRS would conduct enhanced departmental reviews of providers to ensure the workforce is receiving the wages afforded to them through enhanced reimbursement rates.

This concludes my testimony regarding HB 2094. I will now stand for any questions.



Kathleen Sebelius, Governor Kathy Greenlee, Secretary

www.agingkansas.org

House Committee on Aging and Long Term Care

March 3, 2009

HB 2094/Appropriations for FY 2010 through 2014, Home and Community-based Services under DD, PD, FE, TBI and autism Medicaid waivers and Tiny-K program

Secretary Kathy Greenlee

Chairman Bethell and Members of the Committee: I last appeared before this committee to present the Kansas Long Term Care Annual Report, a joint effort of the Kansas Department of Social and Rehabilitation Services and the Kansas Department on Aging. The purpose of the report is to illustrate the State's commitment to long term services and supports and our ongoing effort to rebalance the long term care system.

The final paragraph of the executive summary of the Long Term Care Annual report states, "As Kansas continues efforts to strengthen its long term care system, both to provide the best possible services to older adults and individuals with disabilities and to administer services in the most efficient means possible, quality of life, independence and choice must remain our guiding principles."

Kansas seniors, families and advocates voice strong preference for home and community based services. Most people I have met hope to avoid, or at least postpone, more traditional nursing home care. I personally believe there will always be a need and role for nursing homes, which is why our department works closely with providers on issues such as nursing home culture change. The services most often requested, however, are the ones delivered at home.

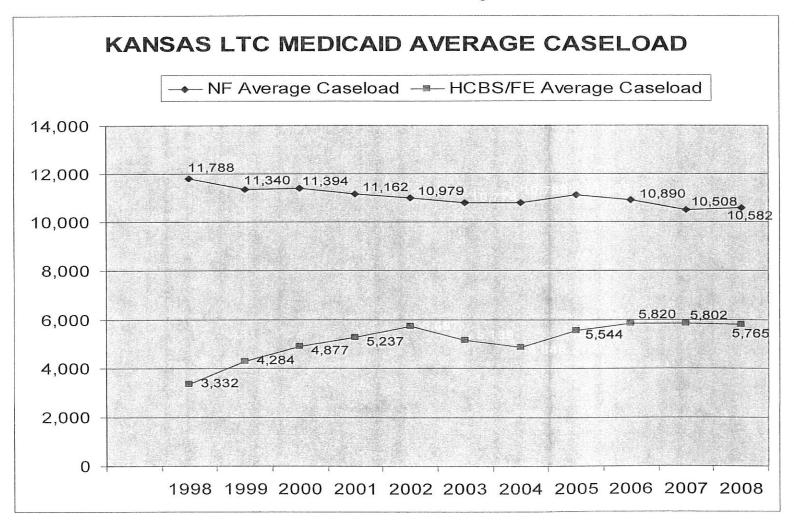
KDOA has administered the home and community based services waiver for the frail elderly (HCBS/FE) since 1997. During the past 12 years, we maintained a waiting list only once, a period spanning two years from June 2002 through June 2004. We did not have a waiting list prior to 2002 and have not had once since it was lifted 2004. Governor Sebelius has made an effort to fully fund the HCBS/FE waiver in order to keep seniors from waiting for services.

HB 2094 articulates a public policy to support all of the long term care waivers by providing full funding and increased rates of pay to service providers. I support those goals. Obviously, however, I cannot counsel you on how best to achieve them. While the FE waiver does not maintain a waiting list, other similar waivers have unique and difficult financial challenges.

Thank you for your ongoing commitment to Kansas seniors and people with disabilities. I applaud your efforts to keep this issue at the forefront as you grapple with difficult fiscal decisions. I am here today to once again express my support for home and community based services, in general, and the HCBS-FE waiver, in particular. The waivers are a good investment to make for the people of Kansas.

Analysis of Annual Medicaid Average Caseload: Nursing Home and HCBS-FE

State Fiscal Years: Actual 1998 through 2007



HCBS-FE waiting list April 2002 – April 2004 Maximum point – June 2003: 2,007 people on the waiting list for services



NTERHAB

WWW.INTERHAB.ORG

March 3rd, 2009

10:

Rep. Bob Bethell, Chair, and Members of the House Aging and Long-Term Care Committee

FR:

Matt Fletcher, Associate Director

InterHab

RE:

HB 2094, the Invisible Kansans Bill

Chairman Bethell and members of the Committee, thank you for the opportunity to speak with you today in support of HB 2094, on behalf of the member organizations of InterHab.

The members of InterHab are among the oldest and strongest providers of services to persons with developmental disabilities in Kansas. Still, our members, along with the rest of the DD service system, teeter on the edge of financial collapse.

The legislature should be commended for its leadership in providing small increases in reimbursement rates during the past four years. Despite these efforts, reimbursement rates to providers have increased only 29% since 1993. In that same period of time, inflation increased by more than 52%, while the wages the State pays its own direct care workers in its two DD institutions increased by 75%.

Also during this same time frame, the State allowed its waiting lists of those with developmental disabilities to grow from 0 in 1996, to 3,786 children and adults.

Consider the bitter fruit of this neglect... community direct care worker wages that now average \$8.76 per hour, while the State's own direct care workers are paid a *starting* wage of \$12.35. Millions of wasted taxpayer dollars, spent in special education for thousands of children with developmental disabilities who transitioned out of school and into their parents' family room while waiting years for services. Countless Kansas families, thrown into crisis because they cannot obtain the services they need for their child. Untold numbers of families that have split apart from the pressure, along with many others that have been forced to give up jobs in order to stay home and care for their child.

To say that the State of Kansas has not prioritized the needs of its citizens with developmental disabilities and the organizations that support them would be a drastic understatement.

The Most Significant Decision of Your Legislative Career

During this Committee's hearing on HB 2094, you will hear from providers who are struggling to keep their doors open, from waiting list parents whose lives are in crisis because of a lack of services for their child, from direct care workers who struggle to make ends meet with multiple jobs, and from persons with developmental disabilities who want to live in our communities, but can't make it without the vital supports that are now on the brink of disappearing. I urge you to listen and respond to their pleas for help.

Your decision regarding HB 2094 is one of the most important decisions of your legislative career. Your decision will have far-reaching impacts which will be felt by the State's most vulnerable long after you are no longer in office. I encourage you to consider the weight of the decision that now faces you. You have an opportunity to rescue a service system in obvious distress, improve the lives of tens of thousands of Kansans with developmental disabilities and provide a sorely-needed boost in compensation to the thousands of direct care workers who are struggling just to pay their bills.

The moral choice is clear.

HOUSE AGING & LONG TERM CARE DATE: 3/3/09 ATTACHMENT: 9 "Shovel-Ready"

HB 2094 represents a massive economic stimulus opportunity for communities all across Kansas. In fact, it is one of the largest economic stimulus efforts that the legislature will undertake this year. If you want to maximize federal dollars, generate millions in additional economic stimulus for your legislative district and create a significant number of new jobs, HB 2094 is the bill for you.

In fact, HB 2094 is the ultimate "shovel-ready" project. Funds invested in communities through HB 2094 will make an immediate impact, beginning in 2010.

Using economic impact 'multiplier' formulas that allow for an estimation of local impacts of dollars invested, the \$90 million of SGF invested in DD reimbursement rates and waiting lists will generate an estimated amount of more than \$420 million in economic impact across our state (see attached map). More than \$115 million of economic stimulus will be generated in the first year alone. These impacts will be realized not only through the direct investment of SGF dollars, which will yield an influx of federal funds, but through indirect impacts as organizations purchase goods and services and induced impacts as DD workers spend their wages on in their communities.

We also looked at potential job creation through HB 2094. It is clear that HB 2094 seeks to eliminate the State's waiting lists within four years. Bringing that many new individuals into service <u>will</u> create jobs. By looking at organizations' staffing ratios and also by examining the needs of those waiting for services, we have estimated that **at least 1,140 additional jobs** will be created across Kansas by HB 2094 (see attached map). We feel this estimate may be somewhat conservative.

According to the Paraprofessional Health Care Institute (PHI), direct-care jobs are among the fastest growing in the nation, and over the next decade more direct care jobs will be created than any other occupation in the entire U.S. economy. PHI further points out that:

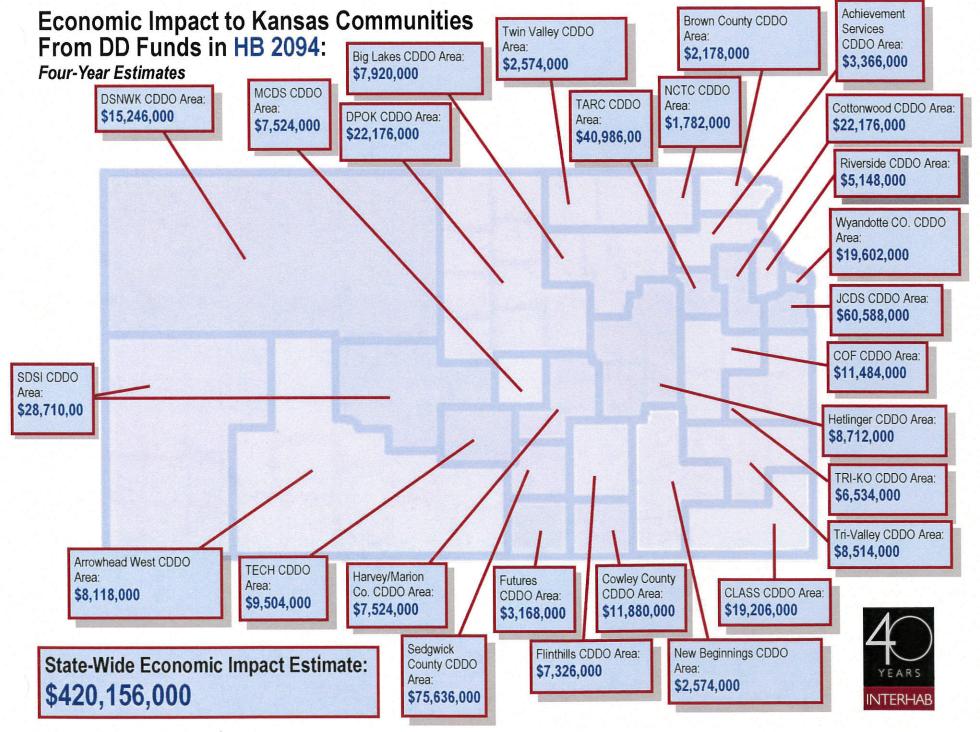
- The United States faces a significant recession, one that will require an ongoing response that creates decent jobs and gets money in the hands of people who will spend it.
- Direct care is a major source of employment for low-wage workers particularly women of color. In fact, roughly one of every ten low-wage workers is a direct-care worker.
- Recent reports from groups as diverse as the Institute of Medicine and the Center for American Progress
 have targeted the direct-care workforce as the key element of our health care and health assistance
 infrastructure and worthy of significant public investment.
- Investment in the direct-care workforce yields multiple benefits economic development and job creation while strengthening the health service delivery system supporting our frailest citizens and their family caregivers.

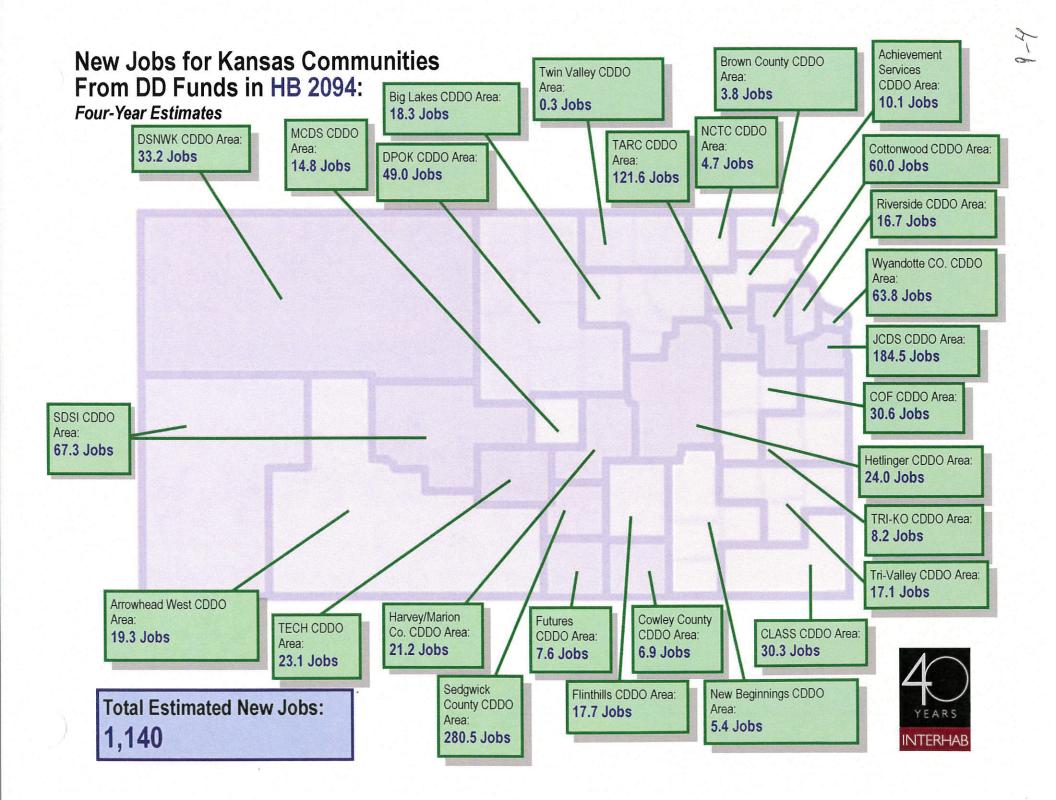
The direct-care jobs provided by DD service providers <u>will be</u> among your legislative district's fastest-growing jobs over the next decade. HB 2094 will ensure quality jobs for your district.

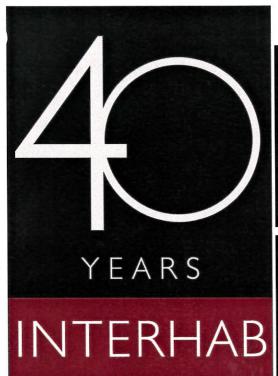
Additional Benefits of HB 2094

There are a number of benefits from HB 2094 that just can't be estimated. Family members who have had to stay home and care for their loved one will now be able to rejoin the workforce. Developmental disability service providers will be able to save jobs by not cutting back programs and services. Many more Kansans with developmental disabilities will be able to find competitive jobs in the community because they will receive the support they need. Most importantly, nearly 4,000 lives will forever be positively impacted by being removed from the State's shameful waiting lists.

Please support HB 2094. The stakes, and the benefits, couldn't be any more significant.







KANSAS DEVELOPMENTAL DISABILITY UPDATE

COMMUNITY CAPACITY

Despite the fact that community providers have successfully transitioned hundreds of persons out of costly institutions, the state has fallen woefully behind in adequately funding the community system. Compare these changes since 1993:

- more than 75%
- Inflation increased more than 52%

State's DD Tech I position increased • The HCBS MR/DD waiver increased only 29% from rate increases given by the Legislature.

WAITING LISTS

The lists of persons with developmental disabilities has grown steadily since 1996. Currently, SRS maintains two waiting lists. One for children and adults who receive no services at all, and another for children and adults who need additional services to live successfully in our communities. Every year, approximately 300 new persons are added to the list.

Unserved Waiting List*: Underserved Waiting List*:

1.685 Children & Adults 2,191 Children & Adults

*As of February 5, 2009

TOTAL:

3,876 Children & Adults

THE PEOPLE



As reported by SRS and KDHE, January 8, 2009:

Number of persons receiving services:

7.575

2,378

6,643

THE PRICE

Community services are underfunded compared to institutional services. Compare the average annual per-person funding:

Parsons State Hospital: \$125,195

KNI: \$177,390

Community DD Services: \$35,663

Direct care workers at the State's two DD institutions make a starting wage of \$12.35 per hour.

Direct care workers doing the similar work in your community make an average wage of \$8.78 per hour.