

INTERIM STUDY PROPOSAL 2009-202

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2
3 REQUESTING THE ARKANSAS LEGISLATIVE COUNCIL OF THE EIGHTY-SEVENTH
4 ARKANSAS GENERAL ASSEMBLY TO REFER TO THE HOUSE AND SENATE
5 INTERIM COMMITTEES ON PUBLIC HEALTH, WELFARE, AND LABOR A STUDY
6 REGARDING NEW FUNDING FOR THE ALTERNATE COMMUNITY SERVICES
7 WAIVER.

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9 WHEREAS, the Alternate Community Services Waiver serves individuals
10 with a developmental disability, which under Arkansas law includes mental
11 retardation, cerebral palsy, autism, epilepsy or any other condition similar
12 to mental retardation that requires services similar to what a person with
13 mental retardation would require (i.e., severe traumatic brain injury); and
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15 WHEREAS, one thousand three hundred seventy-six (1,376) Arkansans with
16 developmental disabilities are on the Alternate Community Services Waiver
17 waiting list, citizens who may wait years before receiving services; and
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19 WHEREAS, the individuals on the waiting list are being denied services
20 because they or their families chose to care for them in their homes or
21 communities rather than by confining them in an institution; and
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23 WHEREAS, all of the individuals on the waiting list are eligible to
24 receive services in an institution where their care would cost three (3)
25 times the cost of caring for them in their homes or communities; and
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27 WHEREAS, the United States Supreme Court held in Olmstead v. L. C., 527
28 U.S. 581 (1999) that states must make substantial efforts to ensure that
29 disabled citizens are provided the least restrictive environment, a holding
30 that may open the State of Arkansas to federal lawsuits if the waiting list
31 moves at an inappropriately slow pace; and
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33 WHEREAS, funding is available to solve this problem now. The cigarette
34 tax has exceeded the state's forecast by ten million nine hundred thousand
35 dollars (\$10,900,000) in the first three months of fiscal year 2009-2010. If
36 this trend continues the state will receive forty-three million dollars

1 (\$43,000,000) more than is forecast for the tobacco tax. Assuming this
2 unanticipated windfall has not been allocated, it would be an available
3 funding source to increase the funding necessary to eliminate the Alternate
4 Community Services Waiver waiting list; and

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6 WHEREAS, the Division of Developmental Disabilities Services of the
7 Department of Human Services previously advised that the average cost per
8 Alternate Community Services Waiver slot is thirty-two thousand seventy-four
9 dollars (\$32,074). The federal government matches Arkansas Medicaid
10 expenditures on a three to one basis. Based on these assumptions the
11 estimated cost to the state to eliminate the waiting list today would be
12 eleven million, thirty-three thousand four hundred fifty-six dollars
13 (\$11,033,456). ($1376 \times \$32,074 = \$44,133,824 / 4 = \$11,033,456$) This
14 represents less than twenty-six percent (26%) of the estimated increase in
15 state revenues from the cigarette fee that exceeded the state's forecast; and

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17 WHEREAS, further, any Alternate Community Services Waiver funds paid to
18 Intermediate Care Facilities for Individuals with Developmental Disabilities
19 may be subject under Arkansas Code § 20-48-902 to the new state provider tax
20 of six percent (6%), funds that would come back to the state,

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22 NOW THEREFORE,

23 BE IT PROPOSED BY THE ARKANSAS LEGISLATIVE COUNCIL OF THE EIGHTY-SEVENTH
24 GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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26 THAT the Legislative Council of The Eighty- Seventh Arkansas General
27 Assembly refer to the House and Senate Interim Committees on Public Health,
28 Welfare, and Labor a study regarding new funding for the Alternate Community
29 Services Waiver.

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31 Respectfully submitted,

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35 Representative Dan Greenberg

36 District 31

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Respectfully submitted,

Senator David Johnson
District 32

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