

INTERIM STUDY PROPOSAL 2009-202

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

WHEREAS, the Alternate Community Services Waiver serves individuals
with a developmental disability, which under Arkansas law includes mental
retardation, cerebral palsy, autism, epilepsy or any other condition similar
to mental retardation that requires services similar to what a person with
mental retardation would require (i.e., severe traumatic brain injury); and

WHEREAS, one thousand three hundred seventy-six (1,376) Arkansans with
developmental disabilities are on the Alternate Community Services Waiver
waiting list, citizens who may wait years before receiving services; and

WHEREAS, the individuals on the waiting list are being denied services
because they or their families chose to care for them in their homes or
communities rather than by confining them in an institution; and

WHEREAS, all of the individuals on the waiting list are eligible to
receive services in an institution where their care would cost three (3)
times the cost of caring for them in their homes or communities; and

WHEREAS, the United States Supreme Court held in Olmstead v. L. C., 527
U.S. 581 (1999) that states must make substantial efforts to ensure that
disabled citizens are provided the least restrictive environment, a holding
that may open the State of Arkansas to federal lawsuits if the waiting list
moves at an inappropriately slow pace; and

WHEREAS, funding is available to solve this problem now. The cigarette
tax has exceeded the state's forecast by ten million nine hundred thousand
dollars (\$10,900,000) in the first three months of fiscal year 2009-2010. If
this trend continues the state will receive forty-three million dollars

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

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

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

NOW THEREFORE,

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

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

Respectfully submitted,

Representative Dan Greenberg
District 31

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