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STATE OF HAWAII  
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 10, 2020

TO: The Honorable Representative Joy A. San Buenaventura, Chair  
House Committee on Human Services and Homelessness

FROM: Pankaj Bhanot, Director

SUBJECT: **SB 3122 SD2 – RELATING TO HEALTH**

Hearing: March 11, 2020, 10:00 a.m.  
Conference Room 329, State Capitol

**DEPARTMENT’S POSITION:** The Department of Human Services (DHS) appreciates the intent of the bill, offers comments, and requests clarification. DHS appreciates the amendments made by the Senate Committees on Human Services, Commerce, Consumer Protection, and Health, and Ways and Means.

**PURPOSE:** This bill requires DHS, upon approval from the Centers for Medicare and Medicaid Services, to establish and implement a program for providing home- and community-based services (HCBS) to at-risk individuals having intellectual or developmental disabilities who meet certain criteria. Requires the Department to utilize any vehicle available, including a state plan amendment or waiver to the QUEST integration section 1115 demonstration project to provide home- and community-based services for individuals having intellectual or developmental disabilities. Appropriates funds. Effective 7/1/2050. (SD2)

Since last legislative session, DHS has regularly met with stakeholders to discuss ways that the present system and continuum of care can be improved for individuals who are transitioning out of services provided by other state agencies like the Department of Education (DOE) and the Department of Health (DOH) Child & Adolescent Mental Health Division (CAMHD). These individuals are often at-risk of institutionalization. Expanding access to services would help these individuals engage in their communities and would provide support

AN EQUAL OPPORTUNITY AGENCY

for their families, who must often struggle on their own to support their child. As a general principle, DHS supports expanding access to some HCBS to this population provided that it does not replace or adversely impact the budget priorities identified in the executive budget.

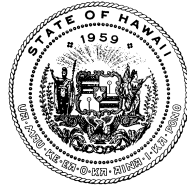
DHS believes the prudent and fiscally sound way forward is to conduct a study before passing this legislation. A study would have to be completed before DHS could submit a request to the Centers for Medicare and Medicaid Services (CMS) to cover HCBS for an at-risk population. A completed study would give DHS, stakeholders, and the legislature the best idea of what the appropriation would be for this program. A study would not be an unnecessary next step, and could support program sustainability with federal matching funds once approved by CMS.

DHS would collaborate with DOH and stakeholders on the study. The study process could be used to further refine a potential at-risk program in regard to the services offered and the individuals covered. The study would give the Legislature the best idea of what the cost of this program would be.

DHS understands that the Legislature may want to pass a bill this year to begin covering this population. If the Legislature moves forward with this bill without a study, then DHS can estimate the potential expenditures for the program to the best of its ability. DHS counsels that a significant general fund appropriation may be necessary because of unknowns surrounding the potential population and their use of services.

DHS notes it is unclear when beneficiaries residing in a shelter would be eligible for services as the provider or entity that makes the determination on whether services are appropriate has been left blank in this version of the bill on page 3, line 11. DHS requests clarification on which providers or entities are intended to make the determination on whether services are appropriate for a beneficiary's living environment.

Thank you for the opportunity to testify on this bill.



**STATE OF HAWAII**  
**DEPARTMENT OF HEALTH**  
P. O. Box 3378  
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doh.testimony@doh.hawaii.gov

**Testimony COMMENTING on S.B. 3122 SD2**  
**RELATING TO HEALTH**

REPRESENTATIVE JOY A. SAN BUENAVENTURA, CHAIR  
HOUSE COMMITTEE ON HUMAN SERVICES & HOMELESSNESS

Hearing Date: March 11, 2020  
10:00 a.m.

Room Number: 329

1 **Department Position:** The Department of Health (DOH/Department) offers the following  
2 **COMMENTS.**

3 **Department Testimony:** The subject matter of this measure intersects with the scope of the  
4 Department's Behavioral Health Administration (BHA) whose statutory mandate is to assure a  
5 comprehensive statewide behavioral health care system by leveraging and coordinating public,  
6 private and community resources. Through the BHA, the Department is committed to carrying  
7 out this mandate by reducing silos, ensuring behavioral health care is readily accessible and  
8 person-centered.

9 The BHA provides the following testimony on behalf of the Department:

10 SB 3122 SD2 would establish a Medicaid Home and Community Based Services (HCBS)  
11 program for individuals with an intellectual or developmental disability (I/DD) who do not  
12 meet Medicaid's institutional level of care criteria for HCBS, but are at risk of being in that level  
13 of care. This population may lack independent daily living skills, may be unable to manage their  
14 own care or have difficulty accessing the supports necessary to maintain their  
15 independence. Navigating services can be confusing, and the right types of services are not  
16 always available especially for young people exiting the school system.

1 Over the last year, DOH has been part of discussions with the Department of Human Services  
2 (DHS) and other stakeholders and advocates to look at the potential service models that could be  
3 implemented for this group of individuals who are often at risk for adverse outcomes, and whose  
4 families often experience extraordinary care burdens. Across the board, there is agreement that  
5 there are many people who could benefit from supports and services who are not getting them  
6 now. These discussions have been very productive, and have brought us all closer to  
7 understanding what the potential of a program could mean for this group of individuals and their  
8 families.

9 The numbers of people who fall into this population in Hawaii is unknown; there may be up to  
10 thousands of people who are in an “at-risk group” and need supports and services to be  
11 successful in the community. The Department remains committed to working with the DHS and  
12 all stakeholders to develop and implement viable solutions to link this population to services  
13 based on their individual needs. As such, DOH appreciates the intent of SB 3122 SD2 and its  
14 approach that could allow DHS to further convene stakeholders to better define the population,  
15 the projected number of people who need services, and the services they need.

16 Currently the DOH’s Developmental Disabilities Division (DDD), through a memorandum of  
17 agreement with the DHS, is the operating agency for the Medicaid 1915(c) waiver for  
18 individuals with I/DD who meet the institutional level of care criteria, which is defined by the  
19 Centers for Medicare and Medicaid Services (CMS) for 1915(c) waivers as an Intermediate Care  
20 Facility for Individuals with Intellectual Disabilities (ICF/IID) level of care.

21 The group of people that would be affected by SB 3122 SD2 are individuals at risk of reaching  
22 the institutional level of care, but do not meet an ICF/IID level of need. The bill would allow  
23 DHS to work with stakeholders to define and operationalize the eligibility criteria based on  
24 functional assessments to identify the at-risk individuals. Unclear eligibility criteria could cause  
25 confusion and overlap of eligibility criteria of the population served through the current 1915(c)  
26 waiver for individuals with I/DD, which includes individuals with functional limitations in three  
27 or more life areas as defined in Section 333F-1 Hawaii Revised Statutes.

1 When applying for Medicaid HCBS waivers, states need to define eligibility criteria for the  
2 population to be covered, identify the specific services to be provided, and provide an estimate of  
3 numbers of individuals to be served. This information is also needed to calculate annual costs  
4 and budget for the state share of service payments. CMS requires costs to be estimated for each  
5 proposed service through an approved rate study. As well, infrastructure for delivering the  
6 services needs to be defined such as provision of case management and other administrative  
7 functions. DOH suggests that each of these factors needs to be defined through a comprehensive  
8 cost study in order to estimate costs associated with delivering the proposed program.

9 **Fiscal Implications:** A full cost study based on definition of the eligible population, numbers to  
10 be served, and specific services to be funded, is needed to estimate costs.

11 Thank you very much for the opportunity to testify.



**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
1010 RICHARDS STREET, Room 122  
HONOLULU, HAWAII 96813  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543

March 11, 2020

The Honorable Representative Joy A. San Buenaventura, Chair  
House Committee on Human Services & Homelessness  
Thirtieth Legislature  
State Capitol  
State of Hawai'i  
Honolulu, Hawai'i 96813

Dear Representative Joy A. San Buenaventura and Members of the Committees:

SUBJECT: SB 3122 SD2 – Relating to Health

The State Council on Developmental Disabilities **STRONGLY SUPPORTS SB 3122 SD2**, requires the Department of Human Services, upon approval from the Centers for Medicare and Medicaid Services, to establish and implement a program for providing home-and community-based services to at-risk individuals having intellectual or developmental disabilities who meet certain criteria. Requires the department to utilize any vehicle available, including a state plan amendment or waiver to the QUEST integration section 1115 demonstration project to provide home-and community-based services for individuals having intellectual or developmental disabilities.

The Council appreciated the work done between legislative sessions with the Fetal Alcohol Spectrum Disorder and Autism Spectrum Disorder groups. Hilopaa family to family Inc, facilitated meetings with the groups, the Council, and representation of the Department of Human Services and the Department of Health. We worked together to build common ground and language that supports individuals that have been known to fall in between the cracks. This is the "at risk" group who are adults with intellectual and developmental disabilities, who do not qualify for services under the Department of Health, Developmental Disabilities Division, and may have a dual diagnosis of a mental illness.

Thank you for the opportunity to submit testimony **strongly supporting SB 3122 SD2**.

Sincerely,

Daintry Bartoldus  
Executive Administrator



## **SB3122 SD2 Home/Community Care for Developmental/Intellectual Disabilities**

COMMITTEE ON HUMAN SERVICES & HOMELESSNESS:

- Rep. Joy San Buenaventura, Chair; Rep. Nadine Nakamura, Vice Chair
- Wednesday: Mar. 11th, 2020: 10:00 am
- Conference Room 329

### **Hawaii Substance Abuse Coalition Supports SB3122 SD2:**

*ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization of over 30 non-profit alcohol and drug treatment and prevention agencies.*

### **HSAC supports the development for Medicaid Funding for Home and Community Based Services (HCBS) for Developmental/Intellectual Disabilities:**

*What we do now and why we need the costly institutional approach:*

*Currently states opt for Intermediate Care Facilities for Intellectual Disability (ICF/ID) as an optional Medicaid benefit to provide health care and rehabilitation services to promote functional status and independence. Generally this optional benefit is an alternative to home and community-based services waivers for individuals at the ICF/ID level of care.<sup>1</sup>*

*ICF/ID fills the need where individuals need immediate services and long term care is not readily available. However Medicaid coverage of ICF/ID services is available only in a residential facility licensed and certified by the state survey agency as an ICF/ID. Medicaid ICF/ID services are available only when other payment options are unavailable and the individual is eligible for Medicaid. There are few resources like an ICF/ID under any payment source.*

*States have been moving towards more HCBS because of the cost of institutional alternatives.*

*In 2014, 53% of all Medicaid long term care spending was on home & community based services (HCBS). Home and community based services (HCBS) provide opportunities for Medicaid beneficiaries to receive services in their own home or community rather than institutions or other isolated settings. These programs serve a variety of targeted populations groups, such as*

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<sup>1</sup> Medicaid Intermediate Care Facilities For Individuals with Intellectual Disability. Medicaid.gov: Keeping America Healthy: <https://www.medicaid.gov/medicaid/long-term-services-supports/institutional-long-term-care/intermediate-care-facilities-individuals-intellectual-disability/index.html>

people with intellectual or developmental disabilities, physical disabilities, and/or mental illnesses.<sup>2</sup>

*Nearly all states offer services through HCBS Waivers. States can operate as many HCBS Waivers as they want. States can waive certain Medicaid program requirements under HCBS Waivers, including:*

- *Can target waivers to areas of the state where the need is greatest, or where certain types of providers are available;*
- *Can make waiver services available only to certain groups of people who are at risk of institutionalization such as:*
- *States can stipulate that Medicaid is only available to people who would otherwise be eligible in an institutional setting, often due to the income and resources of a spouse or parent;*
- *States choose the maximum number of people that will be served under a HCBS Waiver program;*
- *States can offer a variety of services including case management, homemaker, home health aide, personal care, adult day health services, habilitation (both day and residential), and respite care as well as “other” types of services that may assist in diverting and/or transitioning individuals from institutional settings into their homes and community.*

## TARGETED SERVICES

fetal alcohol spectrum disorder, autism, epilepsy, cerebral palsy, traumatic brain injury, HIV/AIDS, technology-dependent children, people with behavioral conditions, or people with intellectual disabilities;

**Hawaii has great flexibility to add new groups of diagnosis as well as control services and financial costs to help reduce institutional care and costs – that’s why HCBS are active nationwide for an increasing variety of services.**

We appreciate the opportunity to provide testimony and are available for questions.

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<sup>2</sup> Medicaid Home and Community Based Services. Medicaid.gov: Keeping America Healthy: <https://www.medicaid.gov/medicaid/home-community-based-services/index.html>



**SB-3122-SD-2**

Submitted on: 3/9/2020 2:26:42 PM

Testimony for HSH on 3/11/2020 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louis Erteschik	Hawaii Disability Rights Center	Support	Yes

Comments:

We definitely want to see more coverage for the entire population that is set forth in this bill. We have long advocated that there are many individuals who may not meet the strict criteria for either DD eligibility or for the Medicaid Level of Care requirements. Yet, they have real needs and may not have any services. For those reasons, we welcome this bill.

Representative Joy A. San Buenaventura, Chair  
Representative Nadine K. Nakamura, Vice Chair  
House Committee on Human Services and Homelessness

Kassandra Feliciano  
[kdubois@hawaii.edu](mailto:kdubois@hawaii.edu)

Wednesday, March 11, 2020  
House Conference Room 329, State Capitol

I am testifying support for, and with comments on S.B. No. 3122 S.D. 2, Relating to Health

Good morning. Thank you, Chair Buenaventura, Vice Chair Nakamura, and members of the House Committee on Human Services and Homelessness, for holding this hearing this morning so that myself and others may provide their perspective on S.B. No. 3122 S.D. 2. My name is Kassandra Feliciano, and I am currently a master's student majoring in Social Work at the University of Hawai'i at Mānoa. I am testifying in favor of, and with comments on S.B. No. 3122 S.D. 2.

This bill is an important initiative to effectively treat our keiki diagnosed with mental health disorders including; autism spectrum disorder (ASD), and other intellectual and developmental disabilities (IDD), who are at an increased risk of institutionalization. Commonly, social functioning is often impaired for individuals diagnosed with ASD or IDD. Hence, research conducted by Leutz et al., concluded that intensive and ongoing treatment that involved collaboration between systems, providers and families increased efficacy for treating ASD (Leutz et al, 2015). Thus, S.B.3122 S.D.2 which focuses on integrating care into the child's community and home, bridges a gap between systems and promotes collaboration between systems, providers and the client's family.

Important to note, are the increased incidences of ASD and IDD diagnoses within the last decade. According to Boyle et al., as referenced through the Center for Disease Control and Prevention, ASD diagnoses have increased 289.5% since 2000. Additionally, 1.8 million more children have been diagnosed with a developmental disorder (DD) in comparison to the preceding decade (Boyle et al., 2011). Needless to say, immediately increasing services for an increased need is a must. Suspending services until the effective date (07/01/2050), listed within the bill is not addressing a current need in the state.

My hope is that this bill be passed with ammendments that prioritize implementing these services within a more immediate manner. With the success of this bill, we can expect to see an increase in social functioning amongst affected children and alleviate the need for future institutionalization. I am testifying in support of, and with comments for S.B. No. 3122 S.D. 2 and implore you to support this bill, with ammendments, as well. Your time and attention are deeply appreciated.

References:

Boyle CA, Boulet S, Schieve L, Cohen RA, Blumberg SJ, Yeargin-Allsopp M, Visser S, Kogan

- MD. Trends in the Prevalence of Developmental Disabilities in US Children, 1997–2008. *Pediatrics*. 2011
- Leutz, W., Warfield, M. E., Timberlake, M., & Chiri, G. (2015). Infrastructure of Participant Direction for Medicaid-Funded In-Home Autism Services for Children in Massachusetts. *Journal of Policy & Practice in Intellectual Disabilities*, 12(1), 27–36.

March 9, 2020

To: Representative Joy A. San Buenaventura, Chair  
And Members of the House Committee on Human Services and Homelessness

Date & Time of Hearing: Wednesday, March 11, 2020, 10:00 am, Room 329

**Testimony in Support of SB3122: Directs DHS to Establish & Implement Home and Community-Based Care for At-Risk Individuals having Intellectual or Developmental Disabilities**

I am writing on behalf of myself and individuals, parents and families that who seek services for children and adults with a Fetal Alcohol Spectrum Disorder (FASD) and other developmental disabilities. As a retired biochemist, I can attest to FASDs as permanent brain-based disorders due to exposure to alcohol during pregnancy and impairment varies from individual to individual. Many are ineligible for services because they are “too high functioning.” Yet, we know that most individuals with FASD function best with supervision and structure which translates to having an “External Brain” of the caregiver. Many are successful because of family support. Now, as their children wish to be more independent, they and their families need our help. Mentoring, places to live with supervision, respite care, transportation, someone to remind them of appointments and help them with planning and organizations skills, are only a few ways that help individuals with FASD lead productive and meaningful lives.

A comprehensive study in the U.S. (Streissguth, A., et al., 2004) noted that most (~75%) of adults with FAS/FAE had IQs within the normal range. In spite of this finding, ~60% of adults with FAS/FAE encountered the criminal justice system; ~80% are unable to live independently; ~50% had Alcohol/Drug problems; ~95% have mental health issues. With support throughout their lives, we make a difference to those affected by FASD and other developmental disabilities, their families, and community.

Thank you for your consideration.

Sincerely,

Kenichi K. Yabusaki, Ph.D.

**SB-3122-SD-2**

Submitted on: 3/10/2020 8:08:49 AM

Testimony for HSH on 3/11/2020 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Katrina Obleada	Hawaii Psychological Association	Support	No

Comments:

**SB-3122-SD-2**

Submitted on: 3/10/2020 9:10:28 AM

Testimony for HSH on 3/11/2020 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Andrea Hiura	Individual	Support	No

Comments:



**SB3122 SD2 Home/Community Care for Developmental/Intellectual Disabilities**

COMMITTEE ON HUMAN SERVICES & HOMELESSNESS:

- Rep. Joy San Buenaventura, Chair; Rep. Nadine Nakamua, Vice Chair
- Wednesday: Mar. 11th, 2020: 10:00 am
- Conference Room 329

**The Coalition for a Drug-Free Hawaii Supports SB3122 SD2:**

For years The Coalition for a Drug-Free Hawaii has supported individuals, parents and families whose lives are complicated with a Fetal Alcohol Spectrum Disorder (FASD). FASDs are permanent brain-based disorders due to exposure to alcohol during pregnancy and impairment varies from individual to individual. Many are ineligible for services because they are “too high functioning.” We know that most individuals with FASD function best with supervision and structure. Many are successful because of family support. Now, as their children wish to be more independent, they and their families need our help.

Mentoring, places to live with supervision, respite care, transportation, someone to remind them of appointments and help them with planning and organizations skills, are only a few ways that help individuals with FASD lead productive and meaningful lives. With support throughout their lives, we can make a difference to those affected by FASD and other developmental disabilities, their families, and community.

Thank you for your consideration.

With aloha,

Greg Tjapkes  
 Executive Director  
 Coalition for a Drug-Free Hawaii

**LATE**

**SB-3122-SD-2**

Submitted on: 3/10/2020 10:26:06 AM

Testimony for HSH on 3/11/2020 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodee Haole	K.E.L.I.I. FOUNDATION	Support	Yes

Comments:



**SB-3122-SD-2**

Submitted on: 3/10/2020 10:56:08 AM

Testimony for HSH on 3/11/2020 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Adonis Buttel	Non-profit K.E.L.I.I	Support	No

Comments:

I support this bill and its intentions. We need to help out the disabled community to be able to access services that they so desperately need. As a son with autism, I know he will need services for when he becomes an adult and I hope that this type of services are available for him to partake in. Thank you

**LATE**

**SB-3122-SD-2**

Submitted on: 3/10/2020 11:26:25 AM

Testimony for HSH on 3/11/2020 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teresa Ocampo	Individual	Support	No

Comments:

This is an absolute must for our disabled young adults who have no security net after they age out of services and programs they receive in high school. This provides the next step needed to help them thrive and survive independently as disabled individuals in our state.

March 10, 2020

To: Representative Joy A. San Buenaventura, Chair  
And Members of the House Committee on Human Services and Homelessness

Date & Time of Hearing: Wednesday, March 11, 2020, 10:00 am, Room 329

**Testimony in Support of SB3122: Directs DHS to Establish & Implement Home and Community-Based Care for At-Risk Individuals having Intellectual or Developmental Disabilities**

I am writing on behalf of myself and individuals, parents and families that I serve who seek services for children and adults with a Fetal Alcohol Spectrum Disorder (FASD) and other developmental disabilities. FASDs are permanent brain-based disorders due to exposure to alcohol during pregnancy and impairment varies from individual to individual. Many are ineligible for services because they are “too high functioning.” Yet, we know that most individuals with FASD function best with supervision and structure. Many are successful because of family support. Now, as their children wish to be more independent, they and their families need our help. Mentoring, places to live with supervision, respite care, transportation, someone to remind them of appointments and help them with planning and organizations skills, are only a few ways that help individuals with FASD lead productive and meaningful lives.

A comprehensive study in the U.S. (Streissguth, A., et al., 2004) noted that most (~75%) of adults with FAS/FAE had IQs within the normal range. In spite of this finding, ~60% of adults with FAS/FAE encountered the criminal justice system; ~80% are unable to live independently; ~50% had Alcohol/Drug problems; ~95% have mental health issues. With support throughout their lives, we make a difference to those affected by FASD and other developmental disabilities, their families, and community.

Thank you for your consideration.

Sincerely,

Arlina Wong



(808)791-3467  
info@hilopaa.org

Date: March 11, 2020

To: Representative Joy A. Buenaventura, Chair  
Representative Nadine K. Nakamura, Vice Chair  
Committee on Human Services & Homelessness



Fr: Leolinda Iokepa, President  
Hilopa'a Family to Family, Inc.

Re: SB 3122, SD2 RELATING TO HEALTH: SUPPORT THE INTENT WITH AMENDMENTS

On behalf of a group of advocates who have been working on refining SB 3122 to establish an At-Risk Medicaid Program for individuals with intellectual and developmental disabilities who are not eligible for the I/DD Medicaid Waiver, we submit testimony humbly requesting that the Committee on Human Services & Homelessness amend the bill to reflect a design phase to develop this At-Risk Program.

Out of respect to the legislature as it leads the State in addressing the unprecedented ramifications to contain and remediate the consequences of the Coronavirus epidemic, it has been determined the best course of action at this time is to not ask for the funding of the At-Risk Program but to focus on designing the At-Risk Program to provide an appropriate amount of specificity to insure any cost projection and any future appropriation request is fiduciarily responsible.

We ask that SB 2122 be amended as follows:

1. Inserting language into the bill for the Department of Human Services to convene a design team to discuss, analyze, and develop recommendations to achieve the following:
  - a) Define the eligibility criteria for the population to be served;
  - b) Project the potential number of eligible individuals;
  - c) Identify the clinical criteria and instrument(s) to be used to establish the population to be served;
  - d) Delineate the service array, definition, and any service limitations;
  - e) Establish provider qualifications; and
  - f) Implement the administration of the program.
2. Amending the language in Section 6 in reference to the appropriation, to replace the intent of the funding from "establish and implement" to "design".

By requesting to amend the bill to include this rigorous design process, it allows the current collaborators to extend their reach and bring in additional resources and stakeholders to better specify who is truly in this gap group and provide a sound and sustainable financial model for years to come.

Thank you for your time and the opportunity to testify before your Committee.