



**Testimony to the Senate Ways and Means Committee
Testimony on SB 444**

Chair McGinn and the honorable members of the Committee. My name is Rocky Nichols. I am the Executive Director of the Disability Rights Center of Kansas. The Disability Rights Center of Kansas (DRC) is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities.

DRC is very supportive of the underlying direction of SB 444, and in particular its aim to provide incentives to assist more Kansans with disabilities to become competitively employed. We believe this bill should be acted upon favorably, however, we absolutely understand and are sympathetic to the concerns raised by the mental health advocacy community and people with mental illness. We agree that many people with mental illness honestly feel left out regarding the language involving SPMI (severe persistent mental illness). On the other hand, we are appreciative to the sponsors of the bill that those with SPMI are included in this version of the bill (as originally as written all people with mental illness were excluded from the incentive). So, the fact that SPMI is included is positive progress that we absolutely appreciate. However, as written many people with mental illness are excluded from the hiring incentive, as only those with SPMI are eligible for the incentive. We have heard from many people with mental illness that this is extremely troubling to them. Their point is well taken. As one example, the bill does not say that a person with quadriplegia is eligible for the hiring incentive but a person with paraplegia is not eligible for that incentive. However, the bill does say that those with SPMI are eligible for the incentive but persons with SMI (severe mental illness, but not SPMI) are not eligible. We understand and appreciate the massive concerns and frustration this issue causes Kansans with mental illness. We are appreciative that the sponsors have chosen to include those with SPMI in the incentive. Again, previously people with mental illness were basically not included in the benefit (unless they worked for a non-profit). However, we hear and agree with the loud and forceful calls from people with mental illness that it seems inherently wrong to them that most people with severe mental illness (SMI) are not included in the incentive as it is currently written.

Some Additional Information about Integrated Setting:

An additional concern we want to bring up is the fact that current bill requires that 20% of your FTE employees have a qualifying disability. We don't know what the magic threshold number should be for a certified business to qualify for the incentive. However, whatever it is, it needs to be a number that policymakers are comfortable that the threshold is still considered an integrated setting. We are concerned that the employment encouraged in this bill be both competitive and integrated employment. The sponsors argue that they have data showing that perhaps approximately 20% of the general population has a disability. From listening to the sponsors, I think that they have said that is one reason why they choose the 20% number. What the appropriate percentage should be that ensures an integrated setting does partially depend on the definition of who is eligible to count as an "individual with a disability" under the bill. The more people with disabilities who count toward the 20% as an "individual with a disability" (like if you included more people with mental illness) then that might somewhat justify a high percentage threshold, like 20% --- which is a high percentage in general toward integration. According to the federal government and the National Institutes of Mental Health, upwards of 27% of Americans have a mental health issue. When you add to that the percentage of people with disabilities who qualify for an HCBS Waiver to that number, then you start to have some nexus argument on this topic. Does that justify the 20% figure to meet the integration threshold? I don't know. Again, it depends in part how broad you make the definition of "individual with a disability."

The definition of integrated setting for employment in the Kansas Employment First law is as follows: "Integrated setting" means with respect to an employment outcome, a setting typically found in the community in which applicants or eligible individuals interact with non-disabled individuals, other than nondisabled individuals who are providing services to those applicants or eligible individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

The question that arises is whether the 20% figure is justifiable as being a setting "typically found in the community" in which the percentages of people with disabilities and those without disabilities are found "to the same extent." Again, if you include more people with mental illness as being a qualifying "individual with a disability" that can count toward the 20% threshold, then it at least helps with the integration argument, as NIMH has found that people with mental health needs make up over 27% of the population. But does that make it integrated? That is a tough question. It depends on how the final bill ends up. I wish I had a better answer for you on this issue.

Components DRC is very supportive of which are critical to SB 444's success:

- **Certified Business Incentive Encouraging Hiring Individuals with Disabilities –** Providing an incentive for businesses that want government contracts to hire people with disabilities and become a "certified business" under this bill. This status granted under the bill is a very powerful and critical tool to ensure greater employment of people with disabilities,

- **Incentive for Businesses to Purchase from Certified Businesses** – The incentive for businesses bidding on state contracts to purchase from certified businesses that hire people with disabilities is another important tool,
- **Certified Businesses Pay for Health Insurance** – The requirement that to be eligible for the bill’s incentives that the certified business must pay the vast majority of the total health insurance premium for its employees, which will reduce Medicaid costs for people with disabilities employed by the certified business,
- **Rebuttable Presumption to be Reinstated to Medicaid** – The rebuttable presumption language to create an ability for people with disabilities to be reinstated to Medicaid and home and community based services (HCBS) Waiver programs without waiting is an important aspect of the bill for those who do go off such services or purchase their supports outside of Medicaid,
- **Intent for Competitive Employment** – The thrust and intent of the bill that the individuals with disabilities at these certified businesses must be employed in jobs that pay competitive wages is a crucial policy objective (note: under the next section of our testimony and in the attachment we suggest some language to make this intent more clear). As you know, Kansas passed the Employment First Initiative last year, making competitive and integrated employment for people with disabilities the first option and official policy of the state of Kansas.