

Public Policy Resources

Massachusetts Department of Developmental Services
Employment First Conference
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Fact Sheet

COMMITTEE ON EDUCATION & LABOR

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The Hon. Robert C. "Bobby" Scott • Chairman

Transformation to Competitive Employment Act

The *Transformation to Competitive Employment Act* provides states, services providers, subminimum wage certificate holders, and other agencies with the resources they need to create competitive integrated employment service delivery models and the inclusive wraparound services that some individuals with disabilities will need. This legislation is designed to strengthen and enhance the disability employment service delivery systems throughout the states while the subminimum wages that are currently allowed under Section 14(c) of the *Fair Labor Standards Act* are phased out over a six-year period.

To reach the goal of improving and expanding the service delivery system to support individuals with disabilities in work settings, this legislation will:

- **Create a competitive state grant program** to assist states to transition all 14(c) certificate holders to models that support competitive, integrated employment for individuals with disabilities. States will be able to apply for these transformation grants and must establish an advisory committee that includes employers, organizations specializing in employment for individuals with disabilities, Medicaid agencies, AbilityOne contractors, individuals with disabilities, and vocational rehabilitation agencies.
- **Create a competitive grant program for current 14(c) certificate holders**, located in states that do not apply for the state grant, to transition their business models to support individuals with disabilities in competitive, integrated employment.
- **Immediately freeze the issuance of any new 14(c) certificates** by the Department of Labor (DOL), and phase out the use of existing 14(c) certificates over 6 years until employees are paid the federal minimum wage.
- **Establish a technical assistance (TA) center to support all entities**, even those not receiving the transformation grants, to transition to competitive integrated employment. The TA center, which will be funded by DOL, is tasked with disseminating information about best practices, lessons learned, and models for transition to all entities transitioning to competitive, integrated employment.
- **Require reporting and evaluation** on the progress of creating and expanding the service delivery structure to support workers with disabilities in competitive integrated settings and the inclusive wraparound services they receive when not working. States and 14(c) certificate holders will also be required to report on their grant activities, evaluate changes in employment for individuals with disabilities, report average wage information, and evaluate employer actions taken to comply with the phase out of 14(c) and transformation grants.

RAISE *the* WAGE

SECTION BY SECTION

Raise the Wage Act of 2019

Section 1. Short Title

The *Raise the Wage Act* (the Act).

Section 2. Minimum Wage Increases

Federal Minimum Wage. The Act increases the federal minimum wage for employees over a six-year period. In the first year (2019), the federal minimum wage will increase by \$1.30 from \$7.25 to \$8.55 per hour. This increase will occur on the first day of the third month that begins after the date of enactment of the Act (the effective date). One year after the effective date, the minimum wage will increase by \$1.30 to \$9.85; two years after the effective date it will increase by \$1.30 to \$11.15; three years after the effective date, it will increase by \$1.30 to \$12.45; four years after the effective date, it will increase by \$1.30 to \$13.75; and five years after the effective date, the minimum wage will increase by \$1.25 to \$15.00. Six years after the effective date (2025), the minimum wage will be indexed to median wages. This document cites this minimum wage as the “6(a)(1) wage.”

Annual Indexing of Minimum Wage Based on Median Wages. Six years after enactment, and each subsequent year, the minimum wage will increase based on the percentage increase, if any, in the median hourly wages of all employees. The Secretary of Labor, through the Bureau of Labor Statistics (BLS), will calculate this change by compiling data on the hourly wages of all employees.

Section 3. Tipped Employees

Tipped Wages. The Act increases the tipped wage from \$2.13 to \$3.60 in 2019. For each succeeding year, the Act increases the tipped wage by the lesser of either \$1.50 or the difference between the tipped wage and the 6(a)(1) wage. Once the tipped wage reaches the 6(a)(1) wage in 2027, the Act eliminates the tipped wage by stipulating that the tipped wage will be the 6(a)(1) wage.

Section 4. Newly Hired Employees Who Are Less than 20 Years Old

Youth Wages. The Act increases the minimum wage for youth under age 20 years from \$4.25 to \$5.50 in 2019. Each subsequent year, the Act increases the youth wage by the lesser of either \$1.25 or the difference between the youth wage and the 6(a)(1) wage. Once the youth wage reaches the 6(a)(1) wage in 2027, the Act eliminates the youth wage by stipulating that the youth wage will be the 6(a)(1) wage.

Section 5. Publication of Notice of Changes to the Minimum Wage

The Secretary shall publish in the Federal Register and on its website, announcements of the increases in the 6(a)(1), tipped, 14(c), and youth wages sixty days prior to each effective date.

Section 6. Promoting Economic Self-Sufficiency for Individuals with Disabilities

Subminimum Wage Certificates for Individuals with Disabilities. The Secretary will discontinue issuing 14(c) certificates on the date of enactment of the Act. Existing 14(c) certificate holders will be permitted to continue using their subminimum wage certificates for six years after enactment. Certificate holders will increase the hourly wages paid to individuals with disabilities who are being paid subminimum wages pursuant to 14(c) on the following schedule: one year after the 6(a)(1) wage takes effect (the effective date), the subminimum wage paid shall be at least \$4.25; two years after the effective date, the subminimum wage paid shall be at least \$6.40; three years after the effective date, the subminimum wage paid shall be at least \$8.55; four years after the effective date, the subminimum wage paid shall be at least \$10.70; and five years after the effective date, the subminimum wage paid shall be at least \$12.85. Six years after the effective date, the subminimum wage paid to 14(c) covered employees must be the same as the 6(a)(1) wage. During the six years of transition to the 6(a)(1) wage, the Secretary of Labor shall, upon request, assist certificate holders with compliance and continuing employment opportunities for individuals with disabilities.

Appendix: Scheduled Minimum Wages Increases

Year	Minimum Wage	Tipped Wage	Youth Wage	14(c)
Current	\$7.25	\$2.13	\$4.25	Subminimum Wage
2019	\$8.55	\$3.60	\$5.50	Subminimum Wage
2020	\$9.85	\$5.10	\$6.75	\$4.25
2021	\$11.15	\$6.60	\$8.00	\$6.40
2022	\$12.45	\$8.10	\$9.25	\$8.55
2023	\$13.75	\$9.60	\$10.50	\$10.70
2024	\$15.00	\$11.10	\$11.75	\$12.85
2025	Index to Median Wages	\$12.60	\$13.00	Index to Median Wages
2026		\$14.10	\$14.25	
2027		Index to Median Wages	Index to Median Wages	



Disability Employment Incentive Act

The Disability Employment Incentive Act (DEIA) is designed to encourage employers to hire and retain employees with disabilities. It enhances three existing tax credits to support employers who hire individuals with disabilities and make workplaces more accessible to those employees.

The need to increase disability employment is great. While studies indicated that 60 to 80 percent of individuals with disabilities report they want to work^{1,2}, only 32.2 percent of people with disabilities are in the workforce according to a May 2018 report from the Bureau of Labor Statistics³, less than half the rate at which people without disabilities participate in the workforce.

Many barriers continue to exist, including prejudice about the abilities of people with disabilities and workplace barriers that make it more difficult for people with disabilities to conduct their work. The tax credits will provide incentives to small and large employers and not only encourage employers to hire but to retain individuals with disabilities as members of their workforce. A description of the three components of the DEIA follow.

Work Opportunity Tax Credit—The DEIA will increase the tax credit for employers who hire a person with a disability referred to them through a state Vocational Rehabilitation agency, a person who is receiving Supplemental Security Income (SSI) benefits, and, a person who is receiving Social Security Disability Insurance (SSDI) benefits. The credit will continue to be 40 percent of the individual's salary for the first year of employment, but raise the amount of the salary considered for credit from \$6,000 to \$12,500, raising the maximum available tax credit from \$2,400 to \$5,000. The DEIA also provides a tax credit for any business that retains an employee for a second year of employment and permits the business to take a credit on 20 percent of the employee's salary up to \$12,500, which is a \$2,500 credit.

Disability Access Expenditures Tax Credit—The DEIA will increase this credit, available to small businesses with gross receipts of less than \$3 million annually or with no more than 60 full-time employees. The maximum tax credit will be raised from \$5,000 to \$10,000.

Architectural and Transportation Barrier Tax Credit—The DEIA will increase this tax credit to \$30,000 for expenses incurred during a single year by a business in removing existing physical barriers in qualified facilities or transportation vehicles. Businesses will also be able to take the credit for expenses for making their telecommunications and on-line business operations accessible. This tax credit has been available since 1976. The current limit \$15,000. The credit may not be used for new structures, only for existing structures where the expenses are used to create accessible spaces to the standards of the U.S. Access Board.

For more information or to cosponsor, please contact michael_gamel-mccormick@aging.senate.gov.

¹ https://kesslerfoundation.org/sites/default/files/filepicker/5/KFSurvey15_Results-secured.pdf

² https://news.rutgers.edu/news-release/people-disabilities-want-work-have-similar-job-preferences-others- rutgers-researcher-finds/20080923#.Wx_jazbfOUl

³ <https://researchondisability.org/home/ntide/ntide-news-item/2018/06/01/ntide-may-2018-jobs-report-despite- fewer-looking-for-work-gains-continue-for-americans-with-disabilities>

The Disability Integration Act



Over 25 years after the signing of the Americans with Disabilities Act (ADA), institutionalization seriously interferes with the liberty of people with disabilities and seniors. The Senate HELP Committee report “Separate and Unequal: States Fail to Fulfill the Community Living Promise of the Americans with Disabilities Act” documented the failure of States to secure and protect the liberty of people with disabilities and seniors by refusing to provide community-based services. That report recommended that Congress strengthen the ADA integration mandate to clarify that States and private insurers cannot interfere with every American’s right to liberty by failing to provide Long Term Services and Supports (LTSS) in the community.

Summary of Legislation

The Disability Integration Act is bipartisan, bicameral legislation that ensures that disabled Americans have a right to live and receive services in their own homes. The DIA further secures our Constitutionally-protected right to liberty by preventing people with disabilities from being forced into costly institutional settings by unnecessary government regulations. DIA was first introduced in the 114th Congress. Senate Minority Leader Schumer has reintroduced the bill (S.910) in the 115th Congress with minor changes that have strengthened the bill. Representative Sensenbrenner (R-WI), who was a cosponsor during the 114th Congress, has introduced DIA (HR.2472) in the House of Representatives.

Legislative Approach

The **Disability Integration Act** creates a comprehensive solution, assuring the full integration of disabled people in the community by:

- clarifying that **every individual who is eligible for LTSS** has a federally protected right to a **real choice** in how they receive services and supports;
- assuring that states and other LTSS insurance providers **deliver services** in a manner that allows disabled individuals to **live in the most integrated setting**, have maximum control over their services and supports, and lead an independent life;
- articulates the **right to live in the community** without creating unnecessary or wasteful Government programs; **States have broad latitude** to determine how they will secure that right;
- establishing a **comprehensive planning requirement** that includes enforceable benchmarks;
- requiring public entities to address the need for **affordable, accessible, integrated housing that is independent of service delivery**; and establishing **stronger, targeted enforcement** mechanisms.

Why You Should Support DIA

- It secures the Constitutional right to liberty for millions of disabled people and seniors who are in institutions and want to live in the community.
- It helps seniors stay in their own homes as they age.
- It saves millions of Federal and State dollars compared with institutionalization.
- It keeps families together.

Support for this Legislation

This legislation has broad-based support of organizations with over 40 national groups, and over 400 groups in all. It was crafted by ADAPT & the National Council on Independent Living with assistance from the Autistic Self Advocacy Network. Key supporters include:

- Advance CLASS
- American Association of People with Disabilities
- Association of University Centers on Disabilities
- Bazelon Center for Mental Health Law
- Brain Injury Association of America
- Leadership Conference on Civil and Human Rights
- Little People of America
- Medicare Rights Center
- National Academy of Elder Law Attorneys
- National Council on Aging
- National Disability Leadership Alliance
- National Disability Rights Network
- National Downs Syndrome Congress
- National Organization of Nurses with Disabilities
- Paraprofessional Healthcare Institute
- Parent to Parent USA
- Self Advocates Becoming Empowered
- SEIU
- Tash
- The Congress of Disabled Persons Against Exploitation
- United Spinal Association

This issue has significant untapped public support. In 2010, ADAPT secured a Harris poll assessing public support. The poll showed that 89% of all Americans, and 94% of retirees, support legislation which would require people to get home and community-based supports and services instead of forcing older and disabled Americans into nursing facilities and other institutions. **More information, including the full supporter list, is available at the DIA website:** www.DisabilityIntegrationAct.org

THE RIGHT TO LIVE IN THE COMMUNITY is logically prior to, and necessary for, the exercise of the rights which the ADA was intended to secure for all people with disabilities.

The lack of adequate community-based services and supports has imperiled the civil rights of people with disabilities, and has undermined the very promise of the Constitution for disabled Americans.

It is, therefore, necessary to recognize in statute a robust and fully-articulated right to community living.

EMPLOYMENT POLICY RESOURCE LIST

EMPLOYMENT FIRST

APSE - Employment First Resources - Includes variety of resources, including map of current Employment First Activity, and copy of SELN Employment First Resource List, documenting activity across the United States –

- www.apse.org/employmentfirst

Massachusetts Department of Developmental Services Employment First Policy

- www.mass.gov/eohhs/gov/laws-regs/ddspolicies/s-employment-first-policy-2010-2.html
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CENTER FOR MEDICARE AND MEDICAID (CMS) EMPLOYMENT-RELATED MATERIALS

CMS Information Bulletin (September 2011) – *Updates to the 1915(c) Waiver Instructions and Technical Guide regarding employment and employment related services (September 2011)*

Information bulletin providing guidance for implementation of CMS's goal to promote integrated employment through use of Medicaid waiver funds

- www.cms.gov/CMCSBulletins/downloads/CIB-9-16-11.pdf

CMS Final Rule on HCBS (January 2014) – Final rule on Home and Community Based Services Settings Rule issued in January 2014, plus background information and guidance.

- www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Home-and-Community-Based-Services/Home-and-Community-Based-Services.html

CMS Memo Extending Period for Compliance with Community Settings Rule Until March 2022 (May 2017)

- www.medicaid.gov/federal-policy-guidance/downloads/cib050917.pdf

HCBS Advocacy – Website that contains every states HCBS 5-year transition plan, and additional background information. - <http://hcbsadvocacy.org>

Federal Hiring Initiatives – Encouraging employment of people with disabilities by the federal government, with a focus in part on use of “Schedule A” that streamlines hiring process

- General Information: www.opm.gov/policy-data-oversight/disability-employment
 - Schedule A Information: www.opm.gov/policy-data-oversight/disability-employment/hiring/#url=Schedule-A-Hiring-Authority
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Federal Contractor Requirements – Strengthened requirements for federal contractors to take affirmative actions to recruit and hire workers with disabilities

- www.dol.gov/ofccp/regs/compliance/section503.htm
 - Database of federal contractors: www.fedspending.org
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MASSACHUSETTS DEPARTMENT OF DEVELOPMENTAL SERVICES MATERIALS

Massachusetts Employment Blueprint for Success – Employing Individuals with Intellectual Disabilities in Massachusetts - www.mass.gov/eohhs/docs/dmr/blueprint-for-success.pdf

Massachusetts Employment Blueprint Progress Report

- www.mass.gov/eohhs/docs/dmr/blueprint-for-success-progress.pdf
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Massachusetts APSE Public Policy Information, including Mental Health Employment First Statement - www.massachusettsapse.org/policy.htm

National Disability Rights Network – Segregated and Exploited – 2011 and 2012 reports finding a failure of the service system to provide quality employment services and supports for people with disabilities

- www.ndrn.org/en/issues/employment.html

National Governor's Association - A Better Bottom Line Initiative to improve employment outcomes (blueprint issued in July 2013) - <http://ci.nga.org/cms/home/1213/index>

Oregon Lawsuit – Information on settlement agreement with State of Oregon on lawsuit claiming that placement in sheltered workshops in a violation of the Americans with Disabilities Act

www.justice.gov/opa/pr/justice-department-reaches-proposed-ada-settlement-agreement-oregons-developmental

U.S. Department of Labor – Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities – Information and reports from committee authorized by the Workforce Innovation and Opportunity Act of 2014 - www.dol.gov/odep/topics/WIOA.htm

U.S. DEPARTMENT OF JUSTICE MATERIALS

U.S. Department of Justice Olmstead Enforcement – Agreements with states increasingly focus on integrated employment (e.g., Rhode Island, Georgia, Virginia, North Carolina) - www.ada.gov/olmstead

WORKFORCE INNOVATION AND OPPORTUNITY ACT

WIA is Now WIOA – ICI Publication – What the New Bill Means for People with Disabilities - www.communityinclusion.org/article.php?article_id=382

WIOA State Plans and Guide – www.communityinclusion.org/wioa

US Department of Labor - www.doleta.gov/wioa/

Rehabilitation Services Administration - www2.ed.gov/about/offices/list/osers/rsa/wioa-reauthorization.html

RESOURCES ON PUBLIC POLICY ADVOCACY

- **ADDP – Advocacy Information** - <http://www.addp.org/advocacy/issues-committees>
 - **APSE – Legislative Advocacy Center** - <http://apse.org/policy-advocacy/take-action>
 - **Disability Policy Consortium** - www.dpcma.org
 - **National Council of Nonprofits** - www.councilofnonprofits.org/everyday-advocacy
 - **Board Resource Center (materials for self-advocates)** – Created for California, but ideas are applicable for any state - www.brcenter.org/lib/Advocate.php
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Prepared by David Hoff
Institute for Community Inclusion - University of Massachusetts Boston
Phone: 617-287-4308
Email: david.hoff@umb.edu - Website: www.communityinclusion.org

