Dear Friends,

Sheltered workshops and the subminimum wage are ideas whose time has come and gone. Since they were established, myths about people with Intellectual/Developmental Disabilities have been shattered, replaced by a new understanding that these individuals deserve and can thrive in competitive employment.

Throughout the nation employers with section 14(c) certificates are closing sheltered workshops and moving people with disabilities into supported, integrated employment. Soon, sheltered workshops will be a thing of the past. This paradigm shift entails significant changes in funding models, training, client support and building pathways to employment. The Fedcap Group is uniquely suited to help you navigate these changes and implement best practices. We have done the work ourselves and understand the challenges of shifting services to people with Intellectual/Developmental Disabilities from a group setting to an individualized model--providing ongoing natural supports and building community connections.

Please join The Fedcap Group's National Center for Innovation and System Improvement for an upcoming webinar about this critical work and learn about our innovative training modules designed to help organizations change their practices around the employment of people with Intellectual/Developmental Disabilities.

Sincerely,

Christine McMahon

President and CEO, The Fedcap Group

Introduction

"*Today, across the U.S., hundreds of thousands of people with disabilities are being isolated and financially exploited by their employers. Many are segregated away from traditional work and kept out of sight. Most are paid only a fraction of the minimum wage while many company owners make six -figure salaries. For many people with disabilities, their dream of leaving their job training program will never come true. They labor away making only a tiny portion of what they should because there is a system in place that provides no true alternatives*." Curtis L. Decker, ESQ, Executive Director, National Disability Rights Network

Sheltered workshops and the subminimum wage are ideas whose time has passed. Since the founding of sheltered workshops in 1840 and establishment of the subminimum wage a century later, myths about people with disabilities have been shattered, replaced by a new understanding that these individuals can thrive in competitive integrated employment and deserve equal pay.

The history of the subminimum wage charts this seismic shift in how people think about disabilities. It is a history marked by laws and policies, often promulgated with the best of intentions that perpetuated a discriminatory system of social isolation and exclusion from the workplace.

The first federal initiative to support people with disabilities was implemented after the Civil War to provide assistance to veterans who were diagnosed as unable to perform labor. The plan promulgated a view of disability that would underpin a century's worth of legislation to follow – that disability is an infirmity; that disability is a medical matter rather than a question of rights; that disability is the province of welfare and charity, and that the devastating impact of segregation and poverty-level wages are secondary concerns.

The subminimum wage was first established by the National Industrial Recovery Act of 1933-1935, which set a subminimum wage system for workers in work centers, also called sheltered workshops, as well as a minimum wage of 75 percent of the industry minimum in competitive industries. The subminimum wage system was reaffirmed in section 14(c) of the Fair Labor Standards Act of 1938 (FLSA), which was signed into law on June 25, 1938 as one of the last legislative acts of the New Deal. The FLSA introduced the nation's first federal minimum wage -- to "increase the standard of living of workers and to promote commercial efficiency" -- but codified the exception for people with disabilities in section 14(c).

The law designated the U.S. Department of Labor (DOL) as Wage and Hour Administrator charged with setting a subminimum wage floor for workers with disabilities.

Section 14(c) permitted payment of wages lower than the federal minimum to persons "*who's earning or productive capacity is impaired by age, physical or mental deficiency, or injury… to the extent necessary to prevent curtailment of opportunities for employment*." Compensation under section 14(c) rate was to be "commensurate with those [wages] paid to non-handicapped workers employed for the same type and quality of work, and crucially, "related to the individual's productivity." The subminimum wage would operate under a system of certificates issued to employers by the DOL authorizing payment of a subminimum wage.

Four types of employers were eligible to pay the sub-minimum wage:

- Work centers (sheltered workshops)
- Hospital or residential care facilities
- Business
- School-work exploration programs.

Qualifying disabilities included physical and mental disabilities, and those that may be related to age or injury, including blindness, mental illness, intellectual disabilities, alcoholism, and drug addiction.

The rationale for section 14(c) of the FLSA was to "*prevent curtailment of opportunities for employment*" for individuals with disabilities. Then-Labor Secretary Frances Perkins stated that a sub-minimum wage should be enforced for "*substandard workers" whom she described as "persons who by reasons of illness or age or something else are not up to normal production*." No advocate or person with a disability played a role in establishing 14(c), and the program's administrative council was composed entirely of employers and representatives of the charitable institutions that would hire the vast majority of subminimum workers.

Sheltered Workshops

"*When individuals with disabilities spend years—indeed, decades—in congregate programs doing so-called jobs like these, yet do not learn any real vocational skills, we should not lightly conclude that it is the disability that is the problem. Rather, the programs' failure to teach any significant, job-market-relevant skills leaves their clients stuck*." Principal Deputy Assistant Attorney General Samuel R. Bagenstos

The first sheltered workshop was established in 1849 at the Perkins Institute for the Blind in Massachusetts. It and others like it were an outgrowth of 'special schools' for the blind that provided basic vocational training in knitting, weaving, and the arts. Also called work centers, sheltered workshops were operated and funded primarily by churches and organizations such as Goodwill Industries and Volunteers of America.

People with disabilities were "*sheltered*," or segregated from workers with no disabilities in order to provide them with employment, which at the time was believed to be out of reach for people with disabilities. Sheltered workshops were intended to provide participants with dignity, self-worth and socialization, and to give parents of children with disabilities peace of mind in knowing their children were safe and secure, and "sheltered" against the demands and competitive pressures of the workplace.

Over time sheltered workshops shifted from an exclusive focus on people with physical disabilities to include individuals with intellectual and developmental disabilities. The shift is attributed to a massive national deinstitutionalization movement spurred by the introduction of psychotropic drugs, the widespread closure of state institutions and a growing societal awareness and understanding of intellectual and developmental disabilities, leading to less stigma and isolation.

Working conditions that exist in sheltered workshops fail to ensure that the disabled will have greater future employment opportunities: Individuals spend their time in day-wasting activities, often practicing assembly skills which will be taken apart by the line supervisor or their peers in order to keep everyone busy. Low challenge work such as sorting, collating, labeling, folding, mailing, sewing, subassembly, heat sealing, hand packaging or other similarly light assembly work comprise the bulk of services done for businesses on a contract basis. Typically these skills are sometimes not even transferable to traditional work because most sheltered workshops do not have modern tools or machinery. So, in the end, they fail to prepare workers for traditional work – even traditional factory work – at all.

People with disabilities are often fast tracked into segregated employment and do not have the benefit of individualized work assessments. Even though most individuals with disabilities in sheltered workshops favor employment outside of workshops, questions about where an

individual would like to work, or what skills they can strengthen or develop are irrelevant. Choice is largely irrelevant. While individuals may experience the normal task requirements of work such as using a time clock, working a fixed schedule, and being supervised, most [sheltered workshops] provide bench work and do not promote self-direction, self-determination or skill development.

The Wagner-O'Day Act, signed into law on June 25, 1938, required that government agencies prioritize the purchase of certain goods such as mops and brooms from nonprofit agencies who employ people who are blind. These goods would be produced in sheltered workshops that were exempt for minimum wage requirements. According to author Floyd Matson – "*The Wagner-O'Day Act provided a shelter for the workshop industry and its management from the harsh reality of the minimum wage. The shops were legislatively gifted with the windfall…exempting them from the requirements of all other federal laws governing wages and hours, working conditions, and fair labor standards*."

The Javits-Wagner-O'Day Act amended the legislation in 1971 and established The AbilityOne program, which uses the federal government's purchasing power to buy products and services from community-based nonprofits that employ individuals with significant disabilities. Affiliated nonprofits must ensure that at least 75 percent of labor hours required to complete AbilityOne contracts are done by people who are blind or have other significant disabilities. Today, the AbilityOne Program is the single largest source of employment in the United States for people who are blind or have other significant disabilities. Currently, the program coordinates Government purchase of goods and services from nonprofit agencies employing almost 45,000 people who are blind or severely disabled.

The funding model for sheltered workshops underwent major changes with the Social Security Act amendments of 1975, which established funding mechanisms for long-term social services (including training) for recipients of Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI). The amendments changed the designation of income received through workshop employment from unearned to earned, encouraging participation of SSI recipients in vocational rehabilitation programs by extending work-incentive features of earned income tax benefits to sheltered workshop training programs.

The new funding model and government purchasing mandates contributed to a steady increase in the number of sheltered workshops. At the time of the FLSA's passage there were about 150 sheltered workshops in the U.S. Today there are approximately 5,600 sheltered workshops with close to 300,000 employees. Nonprofit agencies and state-operated social service providers account for 95 percent of sheltered workshop operators— leaving only five percent of 14(c) workers in competitive employment.

A Vocational Rehabilitation Longitudinal Study reviewed 8,500 recipients of VR services from 1994 to 2000 and confirmed that people placed in sheltered work earned far below the minimum wage and failed to make gains in earnings over time. According to the study, of 7,765 people placed in sheltered work in 1998, 89.3% earned less than the minimum wage of $5.15 an hour. The average hourly earnings for people placed in sheltered work was $3.03.

A 2008 study of 291 individuals with disabilities from 40 sheltered workshop found average hourly earnings of $2.30. Conversely, people with disabilities in competitive employment—defined as employment in an integrated setting, in the general workforce, where a person earns at least minimum wage—earned an hourly wage of $5.75. A 2012 report by the National Disability Rights Network said people working in sheltered workshops earn an average of $175 per month, typically without health care benefits.

The problem of low wages at sheltered workshops is compounded by limited work hours and limited access to health insurance. Only 16 percent of people in the study had health insurance. One year later, the number dropped to 12%. For people with disabilities in integrated employment, the wages started at $7.56 an hour, and rose to 13.48 an hour, with 58.8% of individuals having access to health insurance three years after receiving VR funded services.

Additionally, employees who receive housing, food or transportation from their employers often find fees for these services deducted from their weekly wages. And even worse, at some sheltered workshops, employers serve as the Representative Payee of their employees' Social Security benefits, giving them even more control over the finances of their employees.

Sheltered workshops also expose workers to exploitation and abuse.

The Growth of Sheltered Workshops

The decades after World War II were characterized by the highest increase of sheltered workshops and by the expansion of services to include adults with intellectual disabilities. For instance, between 1948 and 1976, the number of sheltered workshops in the USA increased from 85 to about 3000.

On October 31, 1963, President John F. Kennedy signed into law the Community Mental Health Act (also known as the Mental Retardation and Community Mental Health Centers Construction Act of 1963), which drastically altered the delivery of mental health services and led to the establishment of comprehensive community mental health centers throughout the country.

The law was amended with passage of the Developmental Disabilities Services and Facilities Construction Amendments of 1970 (DD Act), which gave states broad responsibility for planning and implementing comprehensive services for people with severe disabilities and authorized the creation of a Developmental Disabilities Council in each state to plan and coordinate activities.

The 1970 amendments introduced the term "developmental disability" into the lexicon. The law and subsequent amendments redefined the term to include specific conditions (e.g., mental retardation and other conditions closely related to mental retardation, cerebral palsy, epilepsy, autism, and dyslexia) that originate prior to age 18. While the broader definition of developmental disabilities made more people eligible for services and support, it increased both

the number of workers who could be paid the subminimum wage and the prevalence of sheltered workshops.

In 1965 Senator Wayne Morse, D-Ore, proposed that moderately disabled workers be paid the full minimum wage; that the subminimum wage phased out over a three-year period, and that severely disabled workers be paid no less than half the prevailing minimum wage. The proposal was modified after employers dubbed it "unrealistic" and "a drain on the economy." Under the enacted law, the wage rate in 14(c) employment outside of sheltered workshops would be no less than 50 percent of the federal minimum wage. The statute drew a distinction between "regular" sheltered workshop employment and "work activity centers," or therapeutic sheltered workshops. The latter would have no minimum, while 14(c) workers outside of sheltered workshops would continue to be paid based on productivity.

The Rehabilitation Act of 1973 and subsequent amendments prohibited discrimination based on physical or mental disability in federal employment and federally funded programs. Widely considered the nation's first disability civil rights law, it also required employers with federal contracts or subcontracts over $10,000 to proactively hire, retain, and promote qualified individuals with disabilities.

The legislation advanced the concept of community integration and expanded competitive employment opportunities for people with disabilities. In 1998, Congress amended the law, requiring federal agencies to make their electronic and information technology (EIT) accessible to people with disabilities. The law applies to all federal agencies when they develop, procure, maintain, or use electronic and information technology.

In May 1980, the House Subcommittee on Labor Standards conducted a two-day oversight hearing on section 214(c) and the results were deemed "*appalling and inexcusable*." The DOL acknowledged that it was only able to inspect 10 percent of the approximately 4,000 sheltered workshops employing nearly 180,000 workers with disabilities. It acknowledged that workers were being exploited; that it failed to train staff and site inspectors, and that a failure of management routinely led to the approval of sub-minimum wage applications with no justification or follow up.

Disability rights advocates argued forcefully against the subminimum wage and emphasized the value of integrated employment. National Federation of the Blind President Kenneth Jernigan testified that the law *"set[s] up a class of workers who are blind or handicapped and thus forces the members of this class to justify every penny of their paychecks by means of productivity ratings while working under conditions and with equipment over which they have no control*," and says nothing about what a worker's skills would be in a more modern workplace.

In 1986 -- twenty years after establishing a new statutory subminimum wage – Congress eliminated the subminimum wage altogether when it amended the FLSA to implement a system for paying people with disabilities a wage "*commensurate with those paid to non-handicapped workers…for essentially the same type, quality, and quantity of work, related to the individual's productivity*." Workers under 14(c) would be compensated based on their physical output,

described in the legislation as their “earning capacity,” to be determined by a formula by which employers compared the work outputs of people with disabilities in a given time frame to the outputs of employees with no disability. If a worker with a disability is determined to be 50 percent as productive as her non-disabled peer, she would be paid half the wage of that worker.

Disability rights advocates tagged the new wage system as “discriminatory on its face” as it singled out workers with disabilities as ineligible for the minimum wage but did not do so for all less-productive workers—only those with disabilities. Many workers without a disability are less productive then their colleagues for a variety of reasons, but only workers with a disability can be paid a subminimum wage based on their level of productivity. Learners, apprentices, messengers, and students were eligible for the subminimum wage, but those exemptions were job-specific and time limited; only people with disabilities faced a lifetime of subminimum wages based solely on their having a disability.

The legislation required employers to provide "*written assurances*" that wages would be reviewed annually and allowed for employees to petition the DOL for a review of the subminimum wage rate. In practice, the appeals process was a nonstarter for employees with disabilities, as 14(c) workers were prohibited from bring a class action and could only individually petition the DOL for review. Significant power imbalances between sheltered workshop employees and their employers – with few other jobs available – also made review unlikely. The law was signed by President Ronald Reagan on October 16, 1986.

Throughout the 1980s, disability rights organizations pushed the government to consolidate that maze of laws impacting the employment of people with disabilities into a broad statute that would enshrine their rights. The dream was partly realized on July 26, 1990 when President George H.W. Bush signed The Americans with Disabilities Act (ADA) into law. The ADA prohibits employers from discriminating against qualified individuals with disabilities in employment – including job applications, hiring, firing, advancement, compensation, job training -- as well as in public accommodation, public services, transportation and telecommunications. Considered landmark civil rights legislation for people with disabilities, the ADA declared a national goal of ensuring that people with disabilities have equality of opportunity, full participation, independent living, and economic self-sufficiency. Congress found that “*the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous and costs the United States billions of dollars in unnecessary expenses resulting from dependency and non-productivity*.”

Congressional hearings around the ADA provided dramatic testimony about the negative impact of segregated work environments. Rep. Ron Dellums (D.- Calif.) testified — "*I have seen these institutions. The smell of human waste and detergent has stuck in my throat. I have looked into the vegetative eyes of its inmates in their sterile environments, I have heard of the premature death ratio and prevalence of pneumonia and necrotic decubitus, literally allowing them to rot in their beds, these living dead, our imprisoned Americans with disabilities*.”

Despite passage of the ADA and growing sentiment against segregated employment, the vast majority of section 14(c) workers continued to be employed by sheltered workshops and excluded from competitive employment. In the mid-1990s there were 5,912 certificated sheltered workshops employing about 241,000 disabled workers, but only 1,809 certificates for the authorized employment of 6,807 worker in competitive employment.

The subminimum wage certificate system appeared to be a form of discrimination under the ADA, but a review by the Office of the Solicitor concluded that it was not. The review found that the production standard and prevailing wage form the basis of wages for both people with disabilities and those without, which are thus equal, even if compensation itself is radically unequal. However, since section 14(c) requires commensurate wage rates but does not address the issues of discrimination or reasonable accommodation, an employer could in theory be in compliance with section 14(c) but in violation of the ADA.

The Subminimum Wage Galvanizes the Disability Rights Movement

The subminimum wage spurred protests by people with disabilities, who already faced social isolation and employment discrimination. In 1935 a group of six young adults with disabilities staged a sit-in at the New York City office of the Emergency Relief Bureau (ERB) and demanded equal access to jobs—outside of sheltered workshops and at or above the minimum wage--under the Works Progress Administration (WPA), a huge government employment and infrastructure program that grew out of the Great Depression and employed millions of Americans. The group, unemployed because of physical disabilities, were children of working-class immigrants and included a chemist, a file clerk, a watch repairman, a typist, a clerical worker and a pharmacist.

The growing protests eventually led to 11 arrests and drew widespread news coverage, much of it negative. The New York Herald Tribune wrote that "*the crippled picketers screamed hysterically and fought with forty patrolmen who did everything they could to avoid violence*," while the New York Post reported that that "*ten vociferous cripples and a handful of onlookers comprised a mass meeting…to protest treatment of invalids on relief rolls*."

The activists formed the League of the Physically Handicapped and took their protest to Washington D.C., where Labor Relations Director Nels Andersen stated that the WPA was only for "*employables*" and that their concerns were best addressed by New York relief agencies. Protesters refused to give in, saying they were "*sick of the humiliation of poor jobs at best and often no work at all*," and wanted "*not sympathy-but a concrete plan to end discrimination . . . on WP.A. projects*." They sought jobs but also inclusion and respect, as indicated by their slogans -- "*We Don't Want Tin Cups. We Want Jobs*," and "*We Are Lame but We Can Work.*"

Florence Haskell, a 19-year-old typist and part of the original group of protesters said: "*You have to understand that among our people, they were self-conscious about their physical disabilities.... They didn't like being stared at. They didn't want to be looked at.... I think it not only gave us jobs, but it gave us dignity, and a sense of, 'We are people too*.'"

The group produced *Thesis on Conditions of Physically Handicapped*, a founding document of the Disability Rights Movement that described the daily discrimination and humiliation faced by people with disabilities, including exclusion from jobs "*which the physically handicapped person, if given a chance, could fill most competently*."

The document harshly criticized sheltered workshops, which paid a wage of three to five dollars a week; "*Under the guise of social service*," sheltered workshops "*actually engage in shameful exploitation*."

Six months after their first demonstration most of the original protesters would get jobs, and over the next year 1,500 New Yorkers were employed in WPA jobs.

A Strike

On May 25, 2017 approximately 12 workers with disabilities employed by Manassas, Virginia nonprofit Didlake went on strike after voting to form a union. The workers, who provide maintenance and custodial services are also seeking to negotiate lower healthcare costs.

The job action is vigorously opposed by the company, which initially ignored the results of the workers' election and refused to negotiate. The company claims that because they workers are employed through the federal AbilityOne program their right to unionize is limited. "What we're most concerned about is not being able to help our people with disabilities if the union comes between us and them," said Didlake CEO Donna Hollis. "We care tremendously about our employees and want to make sure they're not losing access to government funded programs and services."

A ruling by the NLRB is pending.

The Olmstead Decision

In a landmark 1999 decision, *Olmstead v. L.C.,* the Supreme Court held that unjustified segregation of people with disabilities constitutes discrimination in violation of the ADA. Public entities were required to ensure that individuals with disabilities be placed in the least restrictive, most community-oriented setting possible, and to provide community-based services to persons with disabilities when such services could be reasonably accommodated.

In *Olmstead,* the Supreme Court noted that Congress enacted the ADA to counteract the historical isolation and segregation of people with disabilities. To address this "*serious and pervasive social problem,*" the ADA *"provide[s] a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities*."

Writing for the majority in Olmstead, Justice Ruth Bader Ginsburg wrote that although States "need to maintain a range of facilities for the care and treatment of persons with diverse mental disabilities" and must "administer services with an even hand," "unjustified isolation" (operating as a restriction on a disabled individual's ability to integrate) "is properly regarded as discrimination based on disability."

While *Olmstead* did not change or interpret federal Medicaid law, the Medicaid program plays a key role in community integration as the major payer for long-term services and supports (LTSS), including the home and community-based services (HCBS) on which people with disabilities rely to live independently in the community. In 2010, nearly 3.2 million people received Medicaid HCBS, with expenditures totaling $52.7 billion.

Despite Olmstead, the ADA, and other legal and social breakthroughs, people with disabilities continued to be exploited as sheltered workshops expanded and thrived. A 2001 GAO report found that the DOL "*had continually failed to manage the special sub-minimum wage program for disabled workers and thus has been unsuccessful in preventing sheltered workshops from exploiting disabled workers*." The DOL placed a low priority on the sub-minimum wage program; routinely failed to maintain records of both employers and employees and failed to train site inspectors and staff.

Supporters of the subminimum wage testified that sheltered workshops "give people with disabilities the opportunity to learn key job skills before going [into] the open job market," but in 2000 only about 5 percent of the estimated 424,000 workers with disabilities who earned a subminimum wage were in competitive employment. The rest were in sheltered workshops. A survey of 5,000 adults with disabilities in sheltered workshop in 24 states found on average earning of $101 per month based on an average 74 hours of work.

Researchers noted at the time that "*the ineffectiveness of sheltered workshops for helping individuals progress to competitive employment is well established*." As one observer stated, the social and psychological environment of segregated, noncompetitive employment is not conducive to vocational rehabilitation and "*has been shown to be a much better medium for preparing people to continue sheltered work than to begin competitive work*." Studies show that segregated settings have negative impacts on job satisfaction, psychological well-being, and social activity.

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, including amendments to the DD Act of 1970, provided federal funding to states and public and nonprofit agencies to support community-based delivery of services to persons with developmental disabilities, and enhance opportunities for independence and self- determination. It established State Councils on Developmental Disabilities to identify the most pressing needs of people with developmental disabilities in their State or Territory, and to propose solutions that uphold the dignity of people with developmental disabilities

The Workforce Innovation and Opportunity Act

WIOA significantly limits the use of sub-minimum wage sheltered workshops, and focuses on preventing the direct placement of students with disabilities leaving high school into these programs. WIOA also requires state agencies – including Medicaid agencies, developmental disabilities agencies, vocational rehabilitation programs, and education agencies – to enter into cooperative agreements to prioritize CIE.

The Workforce Innovation and Opportunity Act (WIOA), signed into law by President Obama on July 22, 2014 was designed to help the most vulnerable and at-risk job seekers including those with a disability access competitive integrated employment, education, training, and support services. The WIOA defines competitive integrated employment as full-time or part-time work at minimum wage or higher, with wages and benefits similar to those without disabilities performing the same work, and fully integrated with coworkers without disabilities.

U.S. Sen. Tom Harkin, D-Iowa, who spearheaded the components of the legislation specific to people with disabilities, called the changes "groundbreaking" and said they will "raise prospects and expectations for Americans with disabilities so that they receive the skills and training necessary to succeed in competitive, integrated employment."

WIOA placed some limitations on the subminimum wage but did not eliminate it, disappointing disability rights advocates who had hoped for more. The bill required that individuals with disabilities who are 24 years of age or younger receive employment services, vocational services and career counseling before allowing sheltered workshops to hire them but did not limit the use of the subminimum wage for youth who were then receiving it or for people over age 24 starting work at a subminimum wage. The law contained loophole and exceptions for three classes of people that collectively comprised nearly the entire population of young adults working in sheltered workshops under 14(c).

Executive Order 13658, signed in 2014 by President Barack Obama, established the $10.10 minimum-wage rate (currently $10.35) for workers on government contracts, including workers with disabilities under section 14(c).

Attempts to Repeal the Subminimum Wage

Several attempts have been made to repeal or reform 14(c). In 2011 the Fair Wages for Workers Act sought to guarantee a fair wage to workers with a disability by prohibiting the DOL from issuing new 14(c) certificates and proposing a three-year phase-out of all existing certificates. Similar legislation including the Fair Wages for Workers with Disabilities Act of 2013 and the Transition to Integrated and Meaningful Employment Act, introduced in Congress in January 2013 have not been signed into law.

On January 31, 2019, legislators introduced the Transformation to Competitive Employment Act. Designed to enhance disability employment service delivery systems in states where subminimum wages are allowed under section 14(c), and provide states, service providers, subminimum wage certificate holders, and other agencies with the resources to help workers

with disabilities transition into competitive, integrated employment. The bill would immediately freeze the issuance of new 14(c) certificates by the DOL and phase out existing certificates over a six-year period.

- On May 7, 2015, New Hampshire Governor Maggie Hassan signed Senate Bill 47 into law, making New Hampshire the first state to ban most employers from paying workers with disabilities at a rate lower than the minimum wage. The law includes an exception for some training programs and for family-owned businesses. "*This generational progress toward including every single one of us into the heart and soul of our democracy, our communities, our economy, has a great ripple effect, not only for individuals and not only for their families, but for our economy, too*," the Governor said at the time of signing.

- In 2016 the Minimum Wage and Community Integration Act, HB420/SB417 -- which eliminated 14(c) certificates and requires a worker with disabilities who is paid a subminimum wage and a supervisor to outline a plan for integrated employment -- passed both the Maryland House and Senate with wide, bipartisan majorities. The legislation allows companies that received a 14(c) certificate before Oct. 1, 2016 to continue paying subminimum wages under certain circumstances for four years.
- In February 2018 the Alaska Department of Labor repealed a decades-old regulation that allowed employers to get an exemption to pay workers with disabilities less than the minimum wage if their disability limits their ability to get a job. "*Workers who experience disabilities are valued members of Alaska's workforce. They deserve minimum-wage protections as much as any other Alaskan worker*," said Greg Cashen
- , Alaska's Department of Labor and Workforce Development acting commissioner, in a press statement.

- In April 2018 Seattle became the nation's first city to ban employers from paying people with disabilities less than the city's minimum wage.

- In April 2018 seven senators including Bernie Sanders, I-Vt., and Elizabeth Warren, D-Mass. Wrote a letter to Secretary of Labor Alexander Acosta requesting information about the DOL's oversight of employer minimum-wage waivers under FLSA Section 14(c). "*These waivers are inherently discriminatory and should be phased out in a responsible way*," the senators wrote. "*While the [DOL] continues to issue these waivers, however, we are concerned by past abuses of the program and hope to better understand the extent to which the department is able to prevent employers' mistreatment of and discrimination against workers with disabilities*."

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