

Work Matters

Making Progress in Employment for People with Disabilities

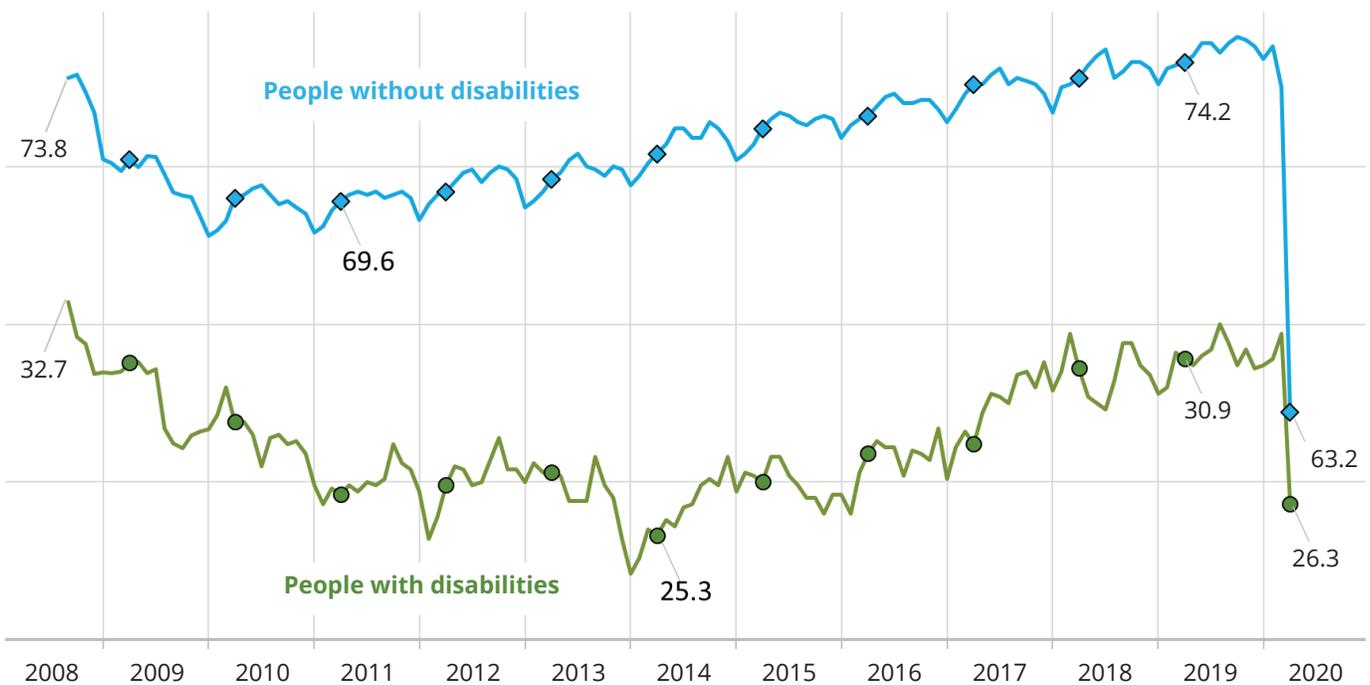
BY JOSH CUNNINGHAM AND SAIGE DRAEGER

Research shows that nearly two-thirds of the 60 million Americans with disabilities strive to work, yet only a third participate in the labor force. A gap in employment opportunities and labor participation has long existed between those living with disabilities and those without disabilities. An evolving societal perception that people with disabilities can and should be included in everyday life has led to growing interest in closing this gap.

In response, the National Conference of State Legislatures (NCSL) and The Council of State Governments (CSG) convened the National Task Force on Workforce Development for People with Disabilities in 2016 to examine ways state policy can remove employment barriers and increase work opportunities for people with disabilities. The task force included a bipartisan group of state legislators, governors' policy advisors, state agency officials and business representatives from all corners of the country. After months of collaboration and review of effective practices, the task force identified dozens of policy

Employment-to-Population Ratio

The COVID-19 pandemic led to a sharp decline in employment across the country.



Source: National Trends in Employment Disability, May 2020

options states can consider in areas like state hiring, education, transportation, technology, workers' compensation and disability-owned businesses. The report maps out a policy framework organized into five themes:

- **Laying the Groundwork.**
- **Preparing for Work.**
- **Getting to and Accessing Work.**
- **Staying at Work.**
- **Self-Employment and Entrepreneurship.**

The task force's findings and recommendations were documented in the report, "[Work Matters: A Framework for States on Workforce Development for People with Disabilities](#)." To assist states considering the Work Matters policy options, NCSL and CSG partnered with the federal Office of Disability Employment Policy in an effort called the [State Exchange on Employment and Disability \(SEED\)](#). The SEED partnership looks to states as leaders in creating innovative policies that remove barriers to employment and increase access to work for the millions of Americans living with disabilities. SEED equips states with timely data, sample policy options, subject-matter expertise and technical assistance. The effort helps ensure state-level policies critical to employment success—such as workforce development, economic opportunity, transportation and technology—are disability-inclusive.

While the Work Matters report highlights over 250 state examples already in place across the country related to the report's policy framework, states have made great progress since the report's release. This update to the original Work Matters report highlights key legislative enactments and executive orders signed since the end of 2016 in each of the five Work Matters policy themes.

Laying the Groundwork

Building a foundation of disability-inclusive policy in a state is a key step toward increasing employment among people with disabilities. States can craft their own hiring and employment practices for state workers to be intentionally inclusive of workers with disabilities. States can also lead the private sector in how they engage the disability community in decision-making by selecting people with disabilities to serve on state boards, task forces, advisory groups, etc. State resources and services can be leveraged to support the private and nonprofit sectors as they seek to build inclusive workplaces and employ people with disabilities. Breaking down silos among state agencies and encouraging the coordination of state services improves the effectiveness of state disability inclusion efforts.

Recent State Actions

A total of 39 states enacted 111 bills from 2017 to 2019 directly relating to the "Laying the Groundwork" policy options listed in the Work Matters report. These state actions covered a range of issues. They include creating various task forces and studies relating to disability employment initiatives, anti-discrimination laws, training programs for state agency managers, state government hiring preferences for veterans, workplace accommodation tax credits, and revising statutory language to use people-first language.



■ Stakeholder Engagement

Illinois established the Employment and Economic Opportunity for Persons with Disabilities Task Force in 2017. This task force is comprised of various state agency leaders representing health and human services, veterans and the state’s Council on Developmental Disabilities. Numerous other stakeholders representing disability organizations, advocates, organized labor and the business community also participate in the task force.

Colorado, Connecticut, Delaware, Georgia, Hawaii, New Jersey, Ohio and **Wisconsin** created or expanded the work of a disability employment task force, study group or advisory board. These types of bodies typically bring multiple stakeholders and state agencies together to coordinate services for people with disabilities participating in the workforce.

■ Employment First

Georgia enacted an “employment first” law in 2018 directing state-funded services to prioritize employment for people with disabilities in an integrated environment and at a competitive wage. The bill included transferring the Division of Rehabilitation Services to the Georgia Department of Labor.

Pennsylvania, South Carolina and **Wisconsin** also enacted employment first legislation.

■ Inclusive Employment Practices

Virginia set a goal in 2017 to increase the number of state employees with disabilities by 5% over the course of five years. The legislation requires every state agency to submit plans for increasing employment opportunities for those with disabilities.

Florida, Illinois, Kentucky, Maryland, Nevada and **Wyoming** enacted legislation seeking to increase the number of state employees with disabilities through hiring goals, training programs and interview preferences.

Tennessee now allows private employers to give hiring and promotion preferences to honorably discharged veterans and certain military spouses.

State Spotlight: Indiana



Indiana’s 2018 HB 1007 seeks to increase employment opportunities for people with substance use disorders through a second-chance employment program. Substance use disorder is a condition protected under the Americans with Disabilities Act. The bill encourages businesses to play a role in their employee’s treatment and recovery experience. Employers receive educational resources about substance use disorder and creating a work environment that supports recovery. An employer can even elect to pay for an employee’s treatment program.

Under the bill, employers receive certain legal protections when they employ workers participating in qualifying substance use treatment programs. Employers cannot be held liable in a civil action alleging negligent hiring for an employee’s negligence. The policy applies to both new hires and current employees receiving treatment for substance use disorder.

Indiana’s Commission to Combat Drug Abuse partners with Indiana Workforce Recovery—an initiative of the Indiana Chamber of Commerce and the Wellness Council of Indiana—to implement the program and develop resources for employers. These stakeholders jointly published an extensive set of [employer guidelines](#) in May 2019 for businesses wishing to participate.

Preparing for Work

A fundamental first step in the transition between the school environment and the world of work is the opportunity to explore and identify skills and match those skills to a potential career. This step is critical for youth with disabilities as they prepare to enter the labor market and become more independent and self-sufficient. Career readiness programs and work-based learning opportunities provide structured support to all youth who want to thoughtfully engage with potential employers or industries. States are increasingly focusing their work to ensure that these programs and services are more inclusive of individuals with disabilities.

Recent State Action

Since 2017, 18 states have enacted a total of 24 pieces of legislation focusing on issues related to the “Preparing for Work” policy options examined in the report. The recent enactments include everything from supporting accessible higher education and strengthening school-to-work or college transition plans to expanding open educational resources and increasing parents’ understanding of transition services.

■ Transition Planning

Arkansas updated its public school accountability law in 2017, including a section regarding students with disabilities and their individualized education programs (IEP). The statute requires that IEPs must include a transition plan that addresses college and career planning for students.

Colorado, Connecticut, Illinois, Maine and **Oklahoma** also enacted legislation addressing the transition process for students with disabilities going from high school into college or a career.

■ Skill Development

California created the Breaking Barriers to Employment Initiative, which houses grant funds to be administered by the state’s Workforce Development Board. The purpose of the funds is to provide services and support to individuals looking to enter or remain in the workforce. Among the populations eligible to be served by these grants are individuals with disabilities. Additionally, activities that the grants can fund include basic skills and adult education, vocational training and mentoring.

California, Florida, Illinois, Nevada and **Utah** also passed legislation related to job skill development, adult education and inclusive work-based learning programs.

State Spotlight: Maryland



Maryland enacted SB 872 in 2017 establishing the James W. Hubbard Inclusive Higher Education Grant Program. The program awards competitive grants to institutions of higher education that provide inclusive education opportunities for students with intellectual or developmental disabilities. To qualify for the grant, institutions must adopt inclusive admission standards that do not require participation in a national college entrance exam. They also must offer a wide selection of integrated courses, provide peer mentoring, and develop a meaningful credential for students with intellectual or developmental disabilities. Beyond the academics, higher education institutions must also address the inclusiveness of campus life. While this program is established in statute, Maryland has not yet appropriated funding for it.

Getting to and Accessing Work

Access to reliable transportation is crucial to maintaining stable employment. People with disabilities are three times more likely to rely on public transportation services, underscoring the importance of dependable and comprehensive transit networks. But while transportation access supports day-to-day mobility, many people with disabilities still face barriers when they arrive at work. Inaccessible physical spaces and technology can inhibit the success of people with disabilities looking for meaningful employment. States are in a unique position to address transportation, physical access and workplace technology by developing tailored policy solutions, creating greater opportunity for people with disabilities looking for work.

Recent State Action

A total of 25 states enacted 41 bills from 2017 to 2019 directly relating to the “Getting to and Accessing Work Opportunities” policy options listed in the Work Matters report. These state actions covered a range of issues, including the creation of various task forces and studies evaluating existing transit for people with disabilities, the regulation of transit network companies (TNCs), autonomous vehicle (AV) testing, home modification tax credits, paratransit services and state website accessibility standards.

■ Transportation Planning

Through a 2018 executive order, **Minnesota** established the Governor’s Advisory Council on Connected and Autonomous Vehicles to study, assess and prepare for the widespread adoptions of AVs, with an emphasis on accessibility for people with disabilities.

Alabama, Colorado, Connecticut, Maine, Rhode Island and the **District of Columbia** also established task forces, councils and programs to study transportation and transit options for people with disabilities.

■ Accessible Living

New York created the Access to Home for Heroes program in 2018. This program provides funds for veterans with disabilities to retrofit their homes, making them more accessible.

The **District of Columbia** also enacted a tax credit for homeowners making accessibility modifications to their homes.

■ Accessible Technology

Utah authorized the Department of Technology Services to coordinate with executive branch agencies to provide basic agency website standards to address common website design and navigation standards.

California, Florida and **Vermont** also enacted legislation relating to accessible technology for people with disabilities.

State Spotlight: Colorado



Colorado enacted SB 213 in 2017, addressing transportation access for people with disabilities through autonomous vehicles—cars that can operate safely through their environment with little to no human interaction. This bill authorizes the testing and use of Level 4 and 5 AVs in the state, levels which do not require a human rider be available to take over manual control. Outlined in the legislation is the finding that automated driving systems will help people who may have difficulty driving, including people who are elderly and people with disabilities, gain access to goods and services essential for daily life and independent living. The bill declares that the regulation of automated driving systems is a matter of statewide concern and prohibits local authorities from setting standards for AVs that are different from those that apply to human drivers.

Staying at Work

Millions of workers experience an injury, illness or change in disability status every year, either on or off the job, resulting in missed working days. Research indicates that the likelihood of returning to full employment is closely tied to the length of a work absence. After a six-month absence due to injury or illness, the chance of returning to full employment falls to 55.4%. Stay-at-work/return-to-work (SAW/RTW) policies consider strategies to retain or reengage workers who undergo these changes, with the goal of returning workers to the labor force quickly. SAW/RTW policies can support all workers as they continue in their careers and as new challenges present themselves.

Recent State Action

A total of 26 states enacted 35 bills from 2017 to 2019 directly relating to the “Stay-at-Work/Return-to-Work” policy options listed in the Work Matters report. These state actions covered a range of issues, including the use of vocational rehabilitation services, paid leave, the creation and management of Achieving a Better Life Experience (ABLE) accounts, workers’ compensation and return-to-work programs.

■ Vocational Rehabilitation

Nevada extended the length of time an employee who suffered a permanent disability can receive vocational rehabilitation job placement services.

Virginia and **Vermont** also enacted SAW/RTW legislation relating to vocational rehabilitation services and vocational assessments.

■ ABLE Accounts

Montana expanded the definition of qualified family members who are eligible for tax deductions for contributions to ABLE accounts.

Maryland and **New York** also passed legislation expanding components of their state ABLE programs, including maximum annual contribution limits and account balances.

Utah modified provisions of the state ABLE Act, directing the Department of Workforce Services to enter into a contract with a state maintaining a qualified ABLE program. This bill requires eligible individuals to be informed of qualified ABLE programs offered by other states and allows persons that contribute to an account in any qualified ABLE program to claim a nonrefundable state tax credit.

Connecticut, **Idaho** and **Wisconsin** enacted legislation related to out-of-state ABLE accounts.

State Spotlight: California



California enacted SB 731 in 2017, addressing veterans with service-connected disabilities by expanding access to paid medical leave. The bill covers employees who are former active duty members of the armed forces and former or current members of the California National Guard or a federal reserve component. Those with a service-connected disability rated at 30% or more by the United States Department of Veterans Affairs are entitled to a leave of absence with pay for up to 10 or 12 days, depending on employment classification. Access to paid leave for the purpose of undergoing medical treatment for a disability related to military service allows service members to maintain employment while avoiding a loss in wages as they seek care.

Self-Employment and Entrepreneurship

People with disabilities are more likely to be self-employed than those without disabilities. They often face barriers to securing and maintaining traditional job placement with an employer. For some, self-employment and entrepreneurship opportunities provide alternative employment and economic self-sufficiency. For others, self-employment may offer more flexibility, independence or a stronger sense of dignity.

States can support business owners with disabilities and individuals interested in self-employment by making existing business development policies and programs more disability-inclusive. States can develop new policies that foster self-employment and entrepreneurship for people with disabilities.

Recent State Actions

From 2017 to 2019, eight states enacted 14 bills relating to disability-owned businesses and entrepreneurship. State actions covered issues like defining what constitutes a disability-owned business, giving preference to disability-owned businesses when awarding state contracts and easing access to business loans. This includes businesses owned by veterans with service-related disabilities.

■ Access to Financial Capital

Oregon added veterans with a 70% or more total disability rating to the list of those eligible to apply to the Oregon Business Development Department for a loan. The loans are awarded to qualifying small business owners with an approved business plan.

Illinois also expanded access for qualifying disability-owned businesses to state economic development financing.

■ Access to State Contracting

Kansas permits state agencies to accept state contract bids that are up to 10% higher than the lowest bid if at least 10% of the bidder's workforce has a disability, the bidder pays at least 75% of the employees' health insurance premiums and does not pay subminimum wages.

Kentucky, Louisiana, Maryland, Tennessee and **Virginia** made it easier for disability-owned businesses to secure contracts, subcontracts and procurement agreements with state agencies.

State Spotlight: Kentucky



Kentucky enacted HB 161 in 2017 to support businesses owned by veterans with service-related disabilities. The bill requires all state agencies to actively engage and counsel veterans' organizations on state contract opportunities. The bill requires Kentucky agencies with "small purchase authority"—the autonomy to make purchases under \$20,000—to solicit at least one quote from a "service-disabled veteran-owned vendor or business."



The Work Continues

The original Work Matters policy framework continues providing states with a roadmap to increase employment opportunities for people with disabilities. Policymakers recognize the many aspects of life that affect a person's ability to work. Access to a high-quality education and reliable transportation options help provide the supports needed to step through an employer's front door. Accommodation supports and stay-at-work policies help workers maintain their employment on their journey to independent living. Job security not only helps those with disabilities maintain long-term self-sufficiency, it provides a social and economic boost to the community as a whole. NCSL will continue tracking state actions that seek to reduce employment barriers and increase work opportunities for people with disabilities.

About SEED

This report is funded by the U.S. Department of Labor Office of Disability Employment Policy's State Exchange on Employment & Disability (SEED) in its efforts to foster a nationwide workforce more inclusive of people with disabilities. SEED partners with intermediary organizations like the National Conference of State Legislatures and the Council of State Governments to ensure that state and local policymakers have the tools and resources they need to develop and disseminate meaningful policies related to disability-inclusive workforce development.

The National Conference of State Legislatures is the bipartisan organization dedicated to serving the lawmakers and staffs of the nation's 50 states, its commonwealths and territories.

NCSL provides research, technical assistance and opportunities for policymakers to exchange ideas on the most pressing state issues, and is an effective and respected advocate for the interests of the states in the American federal system. Its objectives are:

- Improve the quality and effectiveness of state legislatures.
- Promote policy innovation and communication among state legislatures.
- Ensure state legislatures a strong, cohesive voice in the federal system.

The conference operates from offices in Denver, Colorado and Washington, D.C.

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