

## National Governor's Association: Building Inclusive Talent Pipelines for People with Disabilities

Learning Lab - May 9-10, 2018 - Madison, WI

<https://www.nga.org/cms/home/nga-center-for-best-practices/meeting--webcast-materials/page-ehsw-meetings-webcasts/col2-content/main-content-list/general-content.html>

# Everyone Can Work!

*Employment for all is a cost-savings for Alaska.*

### Alaska Delegation:

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### Identified Alaska Goals:

#### **1. Enhance State As a Model Employer (SAME) efforts within Alaska state government**

- a. Institute a centralized accommodation fund for job accommodations exceeding \$2,500 similar to what Massachusetts and Minnesota have done (note most accommodations are no or low cost options under \$500). <sup>1</sup> This fund could be accomplished through allocation of a small percentage of every PCN being directed to this fund (similar to other processes already in practice to pay for IT, administrative services, etc.).
- b. Institute a percentage hiring goal of individuals with disabilities for state contractors and sub-contractors (similar to the Section 503 of the Rehabilitation Act federal contractor and sub-contractor hiring utilization goal of 7%<sup>2</sup>).
- c. Increase awareness of Alaska's current procurement preference (the Alaskans with Disabilities Preference program) for Alaska state government regarding doing business with businesses owned by individuals with disabilities and explore a procurement goal. <sup>3</sup>
- d. Increase awareness and utilization of the Division of Vocational Rehabilitation (DVR) provisional hire process. This may be done most effectively through an e-letter from Commissioners to all their respective departmental staff who are hiring managers encouraging utilization of this DVR provisional hire program and attendance of an informational webinar. Governor's Council on Disabilities and Special Education staff could facilitate a collaborative webinar with DVR staff to allow an opportunity for hiring

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<sup>1</sup> Per the Job Accommodation Network (funded federally through the Office of Disability Employment Policy) research findings, over half of accommodations (59%) are made at no cost, 36% make up a one-time accommodation cost typically around \$500. 4% of accommodations resulted in an ongoing annual cost to the employer, and only 1% necessitated a one-time and annual cost. Such a centralized accommodation fund could be there to cover the cost of personal care attendant services if needed by an employee with a disability. This work should, whenever possible, include looking for universal accommodations that would benefit all employees (universal design).

<sup>2</sup> <https://www.dol.gov/ofccp/regs/compliance/section503.htm>

<sup>3</sup> <http://www.labor.state.ak.us/dvr/ppga.pdf>

managers to learn more about how they can utilize this program. The current provisional hire program the state uses <sup>4</sup>should have policies and procedures reviewed to ensure that it is not limiting opportunities for people with disabilities as currently administered.

- e. The Council initiated and facilitates the collaborative Business Employment Services Team (BEST) <sup>5</sup> and would love to see the Governor formally request this group to not only continue its employer engagement efforts to improve employment outcomes for individuals with disabilities and veterans, but also request the team to fully scale up efforts across the state, with dedicated staff time. Additionally, some states have explored having a business consultant position within their DVR who works solely on developing employer relationships; this may be another option to pursue to improve employer engagement efforts. This could be an opportunity for an Alaska mental Health Trust Authority and DVR collaborative effort.
  - i. The Governor's Council on Disabilities and Special Education could facilitate this work overall, working collaboratively with other state staff.
  - ii. See the following State Exchange on Employment & Disability (SEED) briefs for additional details regarding what other states have done respective to this area:
    - 1. STATE AS A MODEL EMPLOYER: ENHANCING EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH DISABILITIES
    - 2. EXAMPLES OF DISABILITY EMPLOYMENT POLICY OPTIONS RELATED TO PRIVATE SECTOR EMPLOYERS AND DISABILITY-OWNED BUSINESSES

## **2. Enhance apprenticeship opportunities for Alaskans with disabilities**

- a. Pursue more technology and healthcare related apprenticeship opportunities which would be viable career tracks for individuals with disabilities. This could be a good focus for the Apprenticeship Coordinator with DOLWD. <sup>6</sup> Additionally, prison apprenticeships are another innovation which the team learned about at the NGA learning lab. See goal 4 for additional details.
  - i. We would envision this being a collaborative DOLWD and DEED effort.

## **3. Initiate an Employment First Taskforce or Commission called "Alaska Work Matters"**

- a. This taskforce or commission would work to further implement the 2014 Employment First law concepts of competitive and integrated employment for Alaskans with disabilities to better outcomes. <sup>7</sup> It would most likely include the three departments

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<sup>4</sup> <http://doa.alaska.gov/dop/fileadmin/statewidehr/pdf/provisionalhireprogram.pdf>

<sup>5</sup> The Business Employment Services Team (BEST) is a collaborative employer engagement effort undertaken by DOLWD and DHSS staff (facilitated by the Council) to improve employment outcomes for individuals with disabilities and veterans. This team has held its 4th employment first job fair, offered numerous joint trainings for federal contractors on hiring individuals with disabilities and veterans, as well worked very closely with Alaska's Society of Human Resource Management for over the past 3 years.

<sup>6</sup> The DOLWD Apprenticeship Coordinator position was designed to "develop new Registered Apprenticeship programs and increase the number of apprentices in training" per the Alaska Workforce Innovation and Opportunity Act (WIOA) Combined Plan. This plan notes on page 45 the desire for this position to work with "DEED and local school districts to expand work-based learning opportunities for students and out-of-school youth, including youth with disabilities" (page 45 - [http://labor.alaska.gov/wioa/ak\\_wioa\\_plan.pdf](http://labor.alaska.gov/wioa/ak_wioa_plan.pdf)).

<sup>7</sup> Alaska Employment First Law: <http://dhss.alaska.gov/gcdse/Documents/committees/et/HB0211EmploymentFirstStateLaw.pdf>). Employment First concepts include competitive and integrated employment as well as the understanding that everyone can work. This is ultimately a cost-saving concept for Alaska. A commission or task force could be done by executive order by the Governor and follow a similar model as Kentucky utilized which included a requirement for a report with full action plan within 6 months to a year of initiating the group. Such a commission or

noted in the Employment First law (DHSS, DEED, and DOLWD) and could include other departments (such as DOC) as well to assist in ramping up our State As a Model Employer (SAME) efforts.

- i. The Governor's Council on Disabilities and Special Education could facilitate this work with the group meeting 2-4 times per year with no additional staff required.
- ii. The SEED STATE AS A MODEL EMPLOYER: ENHANCING EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH DISABILITIES brief on pages 2-3 discusses what other states have done in greater detail regarding a commission or taskforce.

**4. Enhance Alaska's re-entry process and system (making employment/work experience an area of even stronger focus)**

- a. Arizona has undertaken a sizable enhancement of its re-entry process and system, utilizing innovative strategies around employment as well as having DOC staff all the way up to the commissioner level taking part in exercises to allow them to experience the current re-entry process first hand to help them shape how it needs to be enhanced. This had a huge impact on the entire department in Arizona.<sup>8</sup> The Council sees this as an important area of focus due to the high percentage of the incarcerated population who are Trust beneficiaries.<sup>9</sup>
- b. The Council is currently working with DOC and the Trust on reviving prison industry and learning more about what Wisconsin is doing around durable medical equipment (DME) reuse and recycle.<sup>10</sup>
  - i. The Council would envision continued work with the DOC and the Trust on the DME reuse and recycle aspect of this goal and the other portions being perhaps a DOC and Trust collaborative effort.

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task force would come at a very apropos time as the Council has its employment federal grant concluding this September which has led most of these efforts to date in bringing department staff together around advancing employment first.

<sup>8</sup> We have the Arizona Governor's public policy advisor's contact information and they'd be happy to share more about what they have done to assist other states with replication strategies.

<sup>9</sup> From the Trust Alaska Scorecard 2016, the percentage of incarcerated adults with mental illness or mental disabilities was 44.1%, with the rate of criminal recidivism for incarcerated adults with mental illness or mental disabilities at 38.2% ([http://dhss.alaska.gov/dph/VitalStats/Documents/PDFs/2016%20Trust%20Scorecard\\_final\\_2-16-2017.pdf](http://dhss.alaska.gov/dph/VitalStats/Documents/PDFs/2016%20Trust%20Scorecard_final_2-16-2017.pdf)).

<sup>10</sup> In Wisconsin, their incarcerated population works on making used DME able to be reused again presenting not only skill development for the incarcerated population, but also a cost savings when it comes to billing Medicaid for reused/recycled DME versus new DME.

## **STATE AS A MODEL EMPLOYER: ENHANCING EMPLOYMENT OPPORTUNITIES FOR PEOPLE WITH DISABILITIES**

Many states have adopted multifaceted approaches to supporting the recruitment, hiring, retention, and advancement of individuals with disabilities, including policies requiring state government agencies to become model employers of individuals with disabilities.

State governmental agencies are serving as model employers by adopting policies that include:

- Designating a [state as a model employer task force, working group, or advisory body](#);
- Adopting state [nondiscrimination and affirmative action](#) programs, including setting hiring goals, collecting data, and adopting reporting and accountability measures;
- Creating [fast-track hiring systems](#) for people with disabilities, including special appointment lists, trial work periods, and waivers or modifications of civil service examinations;
- Focusing on [retention and advancement](#) of current employees, including creating centralized reasonable accommodation funds and adopting stay at work and return to work initiatives;
- Ensuring that websites, mobile apps, online systems and other forms of [information and communication technology are accessible](#) to and usable by individuals with disabilities; and
- Training managers on [disability etiquette and best practices](#).

Many of the model state policies described in this policy brief are based on policies identified in [Work Matters: A Framework for States on Workforce Development for People with Disabilities \(December 2016\)](#) and based on additional research conducted by the [State Exchange on Employment & Disability](#) (SEED). The appendix describes comparable policies adopted by the Federal Government.

## STATE AS MODEL EMPLOYER TASK FORCES, WORKING GROUPS, OR ADVISORY BODIES

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As you may know, in September 2012, **Alaska** Governor Sean Parnell created a [State as Model Employer Task Force](#) within the Governor's Council on Disabilities and Special Education. The Task Force, which was charged with reviewing best practices and developing strategies to create an inclusive work environment in state government for workers with disabilities, consisted of members from various state agencies, including members from the Governor's Council on Disabilities and Special Education, the State Division of Personnel and Labor Relations, the State Americans with Disabilities Act Coordinator's office and the State Division of Vocational Rehabilitation.

A number of other states have established task forces, commissions, working groups, and/or advisory groups responsible for examining state employment for persons with disabilities, setting goals and accountability measures and structures, and providing leadership and guidance for state initiatives. Task forces may consist of representatives from relevant state agencies only, or may include other key stakeholders such as individuals with disabilities and their representatives and private sector companies that can assist state government in recruitment and retention efforts of individuals with disabilities. Task forces can be responsible for studying the feasibility of a State as Model Employer effort, contacting other states and experts for information and learning, conducting baseline and ongoing surveys of state employees with disabilities, developing and implementing the initiative, and providing ongoing feedback on the effort.

Below are state examples that may serve as a resource to help the state develop a state-level "Work Matters Task Force."

For example:

- **Kentucky**, on June 13, 2017, Governor Bevin announced the establishment of the [Kentucky Work Matters Task Force](#). On May 15, 2018, the Task Force released its report: [Kentucky's Work Matters Task Force Report: Addressing Barriers to Employment Among Five Key Populations](#). The populations addressed by the Report include: people with disabilities, Veterans (with an emphasis on service-disabled veterans), foster youth, individuals with criminal records, and individuals with substance use disorders.
- **Louisiana**, on March 19, 2018, Governor Edwards established the *State as Model Employer Task Force* pursuant to [Executive Order](#). The duties of the Task Force include establishing a five-year plan with annual goals that will enable the state workforce to reach parity with the percentage of working age people with disabilities in Louisiana and develop policies designed to achieve the employment targets established by this Order.
- **Massachusetts**, using the inherent impetus found in [Executive Order 478](#), , the Governor created an inter-secretariat task force to develop [a strategic plan](#) by which to become a Model Employer of People with Disabilities.

- **Washington's** [2013 Executive Order 13-02](#) set state workforce hiring goals for persons with disabilities and also required the formation of a Disability Employment Task Force to assist state agencies with recruitment and retention. The task force worked with private sector companies on ensuring an increase in the numbers of persons with disabilities in the state workforce.

It should also be noted that the Employer Assistance and Resource Network on Disability Inclusion ([EARN](#)), in collaboration with the National Conference of State Legislators (NCSL) developed a model, [Joint Resolution or Executive Order for States as Model Employers of People with Disabilities](#), to serve as a potential framework for examination of state policies, including the study of areas of possible improvements to outcomes of employment for people with disabilities. This document also includes a sample “Dear Colleague” letter for those seeking additional support from colleagues.

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## **NONDISCRIMINATION AND AFFIRMATIVE ACTION**

### ***Nondiscrimination:***

According to the Bureau of National Affairs, [Disability Discrimination and the Workplace, Second Addition](#), most states have adopted laws prohibiting discrimination on the basis of disability in the employment context.

### ***Affirmative Action:***

State policymakers have expressed support for setting and meeting hiring goals and improving data collection and accountability efforts.

### ➤ **Hiring Goals**

Consistent with the adage “what gets measured, gets done,” several states have adopted state agency affirmative action policies that include hiring goals related to individuals with disabilities (e.g., [California](#), [Connecticut](#), [Florida](#), [Illinois](#), [Iowa](#), [Massachusetts](#), [Minnesota](#), [Oregon](#), [Vermont](#), [Virginia](#), and [Washington](#)).

Note: The Federal Government recently amended its [regulations](#) implementing Section 501 of the Rehabilitation Act (affirmative action by federal agencies) to require a 12 percent goal for individuals with disabilities and a two percent goal for individuals with targeted (significant disabilities).

For example:

- **Connecticut** [Public Act No 13-225](#) specifies that under the supervision of the Commissioner of Administrative Services, each department and agency of state government shall establish an effective program of accommodation and entry level

training of persons with disabilities. Such programs shall be part of department and agency affirmative action programs required by Section 46a-68. All departments and agencies shall make a range of training opportunities available to such persons. All departments and agencies of state government shall establish, as part of their affirmative action plans, specific annual goals and timetables on: (1) the number of jobs that are to be filled through the accommodation of persons with disabilities and (2) entry level training for such persons.

- In 2016, **Florida** enacted [FLHB7003](#), which modified the state's equal employment policy to provide enhanced executive branch agency employment opportunities for individuals who have a disability, including: affirmative action plan; annual report regarding progress toward increasing employment at various employment levels; compilation of data regarding hiring practices with regard to individuals with disabilities and make such data available on website; and issuance of forms that provide for voluntary self-identification of individuals with disabilities and are employed by an executive agency.
- **Massachusetts** (EO 478, now 526) reaffirms the executive branch's commitment to nondiscrimination, equal opportunity, and diversity as guiding principles for hiring and employment. Massachusetts strengthened the order by requiring that hiring goals be incorporated in employment guidelines for the executive branch and ensured follow-through by creating a [Disability Task Force on Employment](#).
- **Minnesota** Governor Mark Dayton's [2014 Executive Order 14-14](#), required agencies to increase the hiring of employees with disabilities by seven percent by August 2018, stating that "the percentage of state employees self-identified as having a disability declined from approximately 10 percent in 1999 to less than four percent in 2013" and citing accordance with the statewide affirmative action program as required by Minnesota statutes, Section 43A.19. The order requires the development of a model for recruitment and hiring strategies to include training programs for hiring managers and clear benchmarks to ensure implementation.
- The Governor of **Washington**, recognizing that state government is one of the largest employers in the state, issued an [Executive Order](#) (EO) that adopted the goal that five percent of the state's workforce would be comprised of persons with a disability. Under the EO, each cabinet-level agency must develop an annual employment plan to address the underrepresentation of people with disabilities in their agency and report progress.
- In 2017, **Virginia** enacted [VA S 1530 \(VA H 2425 Identical\)](#), which established a goal to increase by five percent the level of individuals with disabilities employed by state government by fiscal year 2023. The bill required the Secretary of Administration to coordinate efforts to achieve the goal, to establish a reporting system for tracking and reporting the progress of state agencies, and to report annually on the number of individuals with disabilities employed by the state. The bill required each state agency to



submit a plan to increase employment opportunities for individuals with disabilities to the Secretary no later than December 31, 2017, and each July 1 thereafter.

### ➤ **Hiring Preferences**

Three states have adopted hiring preferences.

- In **Arizona**, under [Ariz. Rev. Stat. §38-492](#), individuals with disabilities are given a five point preference on examinations, provided the individual would receive a passing grade without preference. Individuals with disabilities who are also veterans receive a 10 point preference.
- **Montana**, under [ARM 2.21.14](#), requires that individuals with disabilities be hired over individuals without disabilities when the two are substantially equal in qualifications for an eligible initial hiring position.
- Recently, **Kansas** Governor Sam Brownback issued [Executive Order 15-02](#), establishing a hiring preference for individuals with physical, cognitive and/or mental disabilities and requiring that all state executive branch agencies institute a system for giving hiring preference to individuals with disabilities. Executive Order 15-02 is so recent that it remains to be seen how state agencies implement a hiring preference.

While only these three states have a hiring preference for individuals with disabilities, 49 states and the **District of Columbia** have hiring preferences for veterans and veterans with service-connected disabilities. For example, in 2018 **Maryland** enacted [MD H 1466](#), which authorizes an appointing authority to select specified disabled veterans for specified positions in the State Personnel Management System using a specified selection process; requiring an appointing authority for a specified position in a unit in the Executive Branch of State government with an independent personnel system to develop a specified selection process for disabled veterans; requiring a specified appointing authority to interview specified disabled veterans under specified circumstances.

States looking to implement a hiring preference for individuals with disabilities can model that hiring preference on, or add to, existing preference policies for veterans and veterans with service-connected disabilities.

### ➤ **Surveys, Data Collection, and Accountability**

Surveys, often anonymous, can provide state governments with information on barriers to employment and retention (including fears of discrimination if persons identify themselves as having a disability), workplace environment, accommodation needs, training needs, and income and salary concerns. A number of states continue to conduct surveys of employees to remain abreast of ongoing concerns and to solicit feedback for improvement in the state's efforts. Other requirements related to state accountability include annual or other



reporting on the initiative, monitoring the numbers of employees with disabilities, and tracking progress or developing some other type of mechanism to ensure that the statewide mandate or directive is followed through.

As you may know, The **Alaska** Governor's Council on Disabilities and Special Education conducted a [survey of state workers in 2011](#) in order to monitor the representation of employees with disabilities in Alaska state government and to solicit their recommendations for improvement. Survey findings revealed important information on the employment of persons with disabilities, including that they are appropriately represented in the state's workforce. Recommendations from respondents included: increasing training on the ADA for managers and supervisors, work flexibility through variable work schedules and job sharing opportunities, addressing workplace accessibility, better recruitment 'and retention programs for individuals with disabilities and health and wellness benefits and programs.

The following are several examples of efforts to measure state initiatives:

- In 2016, **Florida** enacted [FL HB7003](#), which provided enhanced executive branch agency employment opportunities for individuals who have a disability, including compiling data on the hiring of individuals with disabilities and making such data available on website.
- **Kansas'** [2010 Executive Order 10-10](#) required the collection of baseline data on persons with disability followed by annual reporting on the numbers of persons employed and their fiscal impact on the state.
- **Illinois'** Departments of Human Rights, Human Services, Central Management Services, the Interagency Committee on Employees with Disabilities and other state agencies conduct an [ongoing online work disability survey](#). The survey gives employees an opportunity to identify themselves as persons with disabilities and to determine the necessity of emergency evacuation assistance.
- [Massachusetts](#) surveyed participants regarding self-identification, disclosure and reasonable accommodation, the employment pipeline, and agency culture. The state found that employees were not aware of the processes for self-identification, reasonable accommodation, or the difference between the two. In response, the state created a marketing campaign to reinforce the importance of diversity as well as mandatory training for employees and managers. Since the launch of Massachusetts' model employer effort in 2009, the share of people with disabilities working in the executive branch has increased from 2.4 percent to 2.9 percent.
- **Minnesota's** [Executive Order 14-14](#) to increase state government employment of persons with disabilities required state agencies to submit an affirmative action plan with: a policy statement, assignment of affirmative action/equal employment opportunity responsibilities, including a workforce analysis, goals, objectives and timetable for completion, and measures to facilitate implementation and development

of internal audit and reporting systems. Technical assistance is provided to each state agency in developing the plans.

- **Washington** enacted [House Bill 1636](#) requiring all state agencies with 100 or more employees to provide an annual report to the legislature communicating the percentage of individuals with disabilities comprising the agency's workforce, including the number of new hires employed from Division of Vocational Rehabilitation Services or the Department of the Services for the Blind. The legislation also requires that each covered agency report to the legislature regarding opportunities for internships that would lead to permanent placement in entry-level positions.

## **FAST-TRACK HIRING SYSTEMS**

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As you know, the [Alaska Provisional Hire Program](#) allows hiring managers to offer provisional appointment without competitive assessment to applicants with severe disabilities for up to four months with the possibility of transitioning the provisional employee to permanent employment. Provisional hiring into Alaska state agencies does not guarantee a permanent placement at the end of the four month trial period. Eligible individuals with disabilities become certified for participation in the provisional hiring program through [Alaska's Division of Vocational Rehabilitation](#), which ensures that the individual can meet the minimum qualifications of the position and meets the requirements for being severely disabled. The provisional hire program does not establish a hiring preference for individuals with severe disabilities, and the hiring manager can elect to interview the qualified individual before beginning the provisional hire process and stop the provisional hire process at any time.

Other states have adopted these programs and policies to create a fast-track hiring process for people with disabilities:

- Waiver or modification of civil service exam requirements; on-site exam accommodations;
- Special appointment lists;
- Trial work periods, including internships, mentoring, and job shadowing;
- Hiring preferences;
- Mandatory interview option; and
- Formal certification process.

Examples of actions states have taken to create a fast-track hiring system are described below.

### **➤ Waiver or Modification of Civil Service Exam Requirements; On-Site Examination Accommodations**

- In **California**, [an Executive Order](#) was issued directing state agencies to fill vacancies through the [Limited Examination and Appointment Program \(LEAP\)](#), designed to facilitate recruitment and hiring of qualified individuals with disabilities. LEAP is an alternative civil service examination process available to any individual with a disability who is certified through the Department of Rehabilitation. Once certified, an individual may take LEAP examinations for state positions during open testing periods. LEAP examinations consists of two stages, an initial competitive readiness examination to evaluate an individual's qualifications and skills, followed, upon successful completion of the readiness examination, by a trial on-the-job examination called the Job Evaluation Period (JEP). Successful completion of the JEP replaces the written portion of the standard civil service examination and awards the applicant with the civil service certification appointment. In 2015, California passed [Senate Bill 644](#), altering LEAP by providing individuals with developmental disabilities with the option to obtain civil service certification by successfully completing a 512-hour internship with a state agency in lieu of a written test or LEAP readiness examination.
- **Illinois** offers an [Accommodated Testing Program](#) to ensure that applicants with disabilities can access the exams necessary for state government positions. The Accommodated Testing Program, a funded state initiative, provides individuals with disabilities with access to a number of on-site examination accommodations at state assessment centers. The [Successful Disability \(SD\) Opportunity Program](#) establishes an alternative examination process for individuals with disabilities who are consumers of the state Division of Rehabilitation Services. The SD program provides the applicant with an SD score that replaces standard scoring on civil service exams, places the individual on an SD program list, and qualifies the individual for agency hiring considerations when the SD program list is requested. The [Alternative Employment Program](#) establishes a reassignment process for state employees on temporary leave for a disability and can no longer perform the requirements of their current assignment. Employees on temporary disability leave may request to be reassigned to another state position for which they are qualified to perform a six month probationary assessment. All three programs are facilitated by Central Management Services and are established under statutory language of [Illinois Public Act 96-0078 of 1996](#).
- **New York** operates the [Governor's Programs to Hire Persons/Veterans with Disabilities](#). Through [Section 55-b of the New York State Civil Service Law](#), up to 1,200 competitive civil service positions can be reserved for appointment of certified and qualified individuals with disabilities. Individuals with disabilities interested in consideration for Section 55-b appointment can seek eligibility certification with the Employee Health Service of the New York Department of Civil Service. Eligibility, which may require a physical examination by a department physician, is determined by employment history and degree of functional limitation caused by the disability condition. Once certified, qualified individuals may express interest in entry-level positions directly to agencies and then be considered for appointment based on qualifications and interviews, forgoing civil service examinations.

- **Oklahoma's** [Optional Program for Hiring Applicants with Disabilities](#), administered by the state's Human Capital Management (HCM) division, provides for an alternative certification process for civil service. Under [Oklahoma Statute §74-840-4.12](#), individuals with disabilities may seek certification from the state Department of Rehabilitation Services, thereby waiving all tests related to civil service eligibility. Upon successful certification, individuals with disabilities may apply to job classifications of interest. HCM then makes eligibility determinations and adds the individual to eligibility lists for the corresponding job classifications, from which agencies can request referrals. Successful appointment must be to a permanent hire position after successful completion of a probationary period. The application and successful placement on eligibility lists is valid for one year. An individual certified for the Optional Program for Hiring Applicants with Disabilities must reapply and for eligibility each year.
- **Utah** established the [Alternative State Application Process \(ASAP\) for individuals with disabilities](#) in 2010 through [House Bill 17](#), allowing for on-the-job examinations in lieu of civil service testing. Utah administrative guidance allows for almost all competitive job postings in state government positions be eligible for ASAP appointment. Interested individuals with disabilities can receive certification by providing documentation of disability and by meeting the minimum qualifications of the job posting. Interested individuals are responsible for identifying eligible positions and then contacting the state's recruitment consultant who works with the agency hiring official to determine if they would like to interview the interested ASAP applicant. Applicants who are hired through the ASAP process are placed in a six month on-the-job examination position, whereupon successful completion leads to appointment to the position pending a one year probationary period.

➤ **Special Appointment Lists and Trial Work Periods, Including Internships, Mentoring, and Job-Shadowing**

- **Delaware** established a [Selective Placement Program](#) through [legislation and state policy](#). The program provides hiring managers with direct access to place qualified candidates with disabilities into vacant positions, bypassing some of the complicated and time-consuming processes. The [Division of Vocational Rehabilitation](#) (DVR) or the [Division for the Visually Impaired](#) (DVI) certifies the applicant as a person with a disability, although the applicant need not be a DVR or DVI client. State human resources professionals review electronic applications filed by Selective Placement Candidates and identify positions for which the individual is qualified. When those positions become available, hiring managers have direct access to their applications and can immediately interview and hire.
- In 2016, **Florida** enacted [FL HB7003](#), which implements programs that incorporate internships, mentoring, on-the-job training, unpaid work experience, situational

assessments, and other innovative strategies that are specifically geared toward individuals with disabilities

- In [Illinois](#), applicants with severe disabilities may be eligible for supported employment during a trial work period, with the possibility of permanent employment thereafter.
- [Maine](#) offers a trial work period of up to one year for candidates certified by vocational rehabilitation. Mandatory interviews can also help otherwise-qualified applicants with disabilities “get a foot in the door” in State Government.
- **Maryland’s** [Special Options Eligible List fast track program](#) provides individuals with disabilities the opportunity to engage in training programs with the Division of Rehabilitation Services (DORS) or an internship under [Maryland’s QUEST program](#), administered jointly through the Department of Budget and Management and DORS.
- In **Nevada**, [NV AB 192](#) extends and modifies temporary limited appointment of persons with disabilities by state agencies under the “700 hour program.”
- **Utah** established the [Alternative State Application Process \(ASAP\) for individuals with disabilities](#) in 2010 through [House Bill 17](#), under which qualified candidates with disabilities may be appointed to fill vacant positions for a six-month trial examination period. Upon completion of the examination period, the worker would then be in the position during the state’s customary probation period.

Note: The Federal Government has established the “[Schedule A Excepted Service Hiring Authority for Individuals with Disabilities](#).” Schedule A is a hiring authority for federal agencies to use to tap into a diverse and vibrant talent pool without going through the often lengthy traditional hiring process. Schedule A allows individuals to apply for a federal appointment through a noncompetitive hiring process. This means that if an individual meets the eligibility status of the appointment and the minimum qualifications for a position, the individual may be hired for the position without competing with the general public.

## ➤ Hiring Preferences

States may also work to increase disability inclusion in the state workforce by creating hiring preferences for individuals with disabilities. Three states currently have a statute or executive order providing for a hiring preference for individuals with disabilities.

- In **Arizona**, under [Ariz. Rev. Stat. §38-492](#), individuals with disabilities are given a five point preference on examinations, provided the individual would receive a passing grade without preference. Individuals with disabilities who are also veterans receive a 10 point preference.

- **Montana**, under [ARM 2.21.14](#), requires that individuals with disabilities be hired over individuals without disabilities when the two are substantially equal in qualifications for an eligible initial hiring position.
- **Kansas** Governor Sam Brownback issued [Executive Order 15-02](#), establishing a hiring preference for individuals with physical, cognitive and/or mental disabilities and requiring that all state executive branch agencies institute a system for giving hiring preference to individuals with disabilities. Executive Order 15-02 is so recent that it remains to be seen how state agencies implement a hiring preference.

While only these three states have a hiring preference for individuals with disabilities, 49 states and the **District of Columbia** have hiring preferences for veterans and veterans with service-connected disabilities. States looking to implement a hiring preference for individuals with disabilities as part of a SAME initiative can model that hiring preference on or add to existing preference policies for veterans and veterans with service-connected disabilities.

### ➤ **Mandatory Interview Option**

**Vermont** provides for fast track hiring through a [Mandatory Interview Option](#), wherein interested individuals with disabilities can ensure an opportunity to interview for positions for which they are qualified. Individuals with disabilities who meet the minimum qualifications of the posting can ensure that their name is referred to the appropriate hiring authority for a mandatory interview by completing the Request for Mandatory Interview form and gaining approval from the state Department of Human Resources Labor Relations Division. Once approved under the mandatory interview option, all postings for which the qualified individual with a disability applies and meets the minimum qualifications must result in an interview. The mandatory interview option process does not guarantee the offer of employment, only an opportunity to interview.

### ➤ **Formal Certification Process By VR Agency**

Vocational rehabilitation agencies, public educational institutions, and other agencies within state government are already working with skilled youth and adults seeking to enter or re-enter the workforce. State human resources agencies can make sure they have formalized partnerships with these entities to maximize their pool of potential workers.

Some states, such as [Illinois](#) and [Maine](#) have more formal partnerships with vocational rehabilitation, in which vocational rehabilitation certifies trained and work-ready candidates for trial work periods, civil service exam exemption, or special appointment lists. These partnerships can also support human resource professionals in creating inclusive job announcements and qualification standards that encourage applicants with disabilities to apply.

## RETENTION AND ADVANCEMENT

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State agencies can help ensure that employees with disabilities, specifically those who acquire disabilities while employed, maintain employment and independence through the following strategies:

- Establishing centralized reasonable accommodation funds and
- Stay and Work and Return to Work Initiatives

### ➤ Reasonable Accommodations—Outreach and Centralized Accommodation Fund (CAF)

Several states have established centralized reasonable accommodations funds.

- **Massachusetts** operates a [Reasonable Accommodation Capital Reserve Account](#) meant to supplement existing agency resources. Established in FY 2009, state agencies may make requests for supplemental funding for accommodations to the Massachusetts Office of Disability and Office of Access and Opportunity, which are evaluated and funds disbursed until the reserve account is exhausted for the current fiscal year. In past years, at least \$100,000 has been made available to supplement state agency budgetary resources.
- **Minnesota** recently underwent a viability and implementation study of centralized accommodation funds. Minnesota's CAF efforts were spurred by legislative and executive branch action in 2014. Minnesota passed [HB 3172 in 2014](#), requiring a study to determine if the state would benefit from establishing a special revenue account for central accommodations. The effort to secure funding for workplace reasonable accommodations was supported by [Executive Order 14-14](#), which asserted Minnesota's intent to become a model employer, and included language relating to securing funds to provide accommodations for state employees with disabilities. The [Centralized Reasonable Accommodation Fund study](#), completed in 2015, examined active state CAF policy in **Massachusetts** as well as **Washington's** CAF policy that was repealed in 2012. As part of 2015 omnibus appropriations [Senate Bill 888](#), Minnesota created an accommodation account designed to reimburse state agencies for workplace reasonable accommodations made for state employees and applicants. The bill also requires an annual report to the legislature related to the use of the accommodation account by state agencies.

Many states have found that providing for extensive workplace reasonable accommodations creates inviting and inclusive workplaces where individuals with disabilities feel comfortable disclosing a disability and asking for accommodations.

As you may know, in **Alaska**, ADA Coordinators, housed in major state agencies, are available to guide state employees through the request for accommodations process as part of its [ADA Compliance Program](#). The ADA Compliance Program also maintains a website



replete with accommodations resources, facility access resources, and guidance on effective communication standards.

- **Vermont** utilizes a formal [Request for Reasonable Accommodation](#) process that includes possible review by a Reasonable Accommodation Committee (RAC) appointed by the Commissioner of Personnel. In the event a request is made for an accommodation exceeding \$500, disagreement between department and employee on the reasonable accommodation offered, or denial of an accommodation request at the department level, the request for accommodation is reviewed by the RAC. Vermont also allows for reassignment to another position as an accommodation option, provided that all other efforts to provide reasonable accommodations have been exhausted.
- **Oklahoma's** [House Bill 2062](#), passed in 2013, provided for a [statewide telework program](#) for its state employees, which can be utilized as a reasonable accommodation, and included language to ensure that the implemented telework system is designed in such a way as to afford accommodations for state employees with disabilities.

#### ➤ **Return To Work As The First Option For Workers Who Acquire Disabilities.**

Rather than having employees who acquire disabilities enroll in the Social Security Disability Insurance program, states can focus on options to retain and advance these employees.

For example:

- **Delaware** has [enacted legislation](#) establishing a return to work program for its state employees and appointed a [return to work coordinator](#) tasked with helping state workers state at work or return to work after injury or illness.
- **Illinois** has recognized the need to address an aging workforce through retention strategies. In 2009, the state [created a program](#) to allow state employees who can no longer perform their job because of a disability to acquire provisional status in a different job within state government.
- **Vermont's** [Invest Employee Assistance Program](#) includes help with disability-related accommodations to stay at work.

## **ACCESSIBILITY OF STATE WEBSITES AND OTHER INFORMATION AND COMMUNICATION TECHNOLOGY**

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Access to the Internet and Intranet (websites), mobile applications, online systems, and other forms of information and communication technologies is the emerging civil rights issue for many people with disabilities. The Federal Government has recognized the critical importance

of accessibility of information and communication technology through the enactment of [Section 508 of the Rehabilitation Act](#) and the promulgation of [updated regulations](#).

Several states are also adopting ICT accessibility policies and practices, including [Alabama](#), [Indiana](#) (procurement contract clause, para. 26) [Maine](#), [Massachusetts](#) (procurement contract clause), and [New York](#).

- In October 2017, the **California** enacted [Assembly Bill No. 434](#), requiring state agencies to make their respective sites accessible by July 1, 2019. Each state agency will be required to achieve conformance with Web Content Accessibility Guidelines (WCAG) 2.0, or any subsequent version, at a minimum Level AA success criteria. Compliance with the requirement would make the website of every state agency accessible to individuals relying on the use of assistive technologies such as screen readers, keyboard navigation and/or other assistive devices that allow them to access and consume digital content.
- [New Hampshire's Web Accessibility Initiative](#) requires all state agencies to develop and maintain web and mobile sites that follow universal access standards that conform to regulations from Section 508 of the Rehabilitation Act. The New Hampshire initiative also applies to all web and mobile state job applications, seeking to remove barriers to applications and hiring for individuals with disabilities.

## **DISABILITY ETIQUETTE AND BEST PRACTICES**

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Simple lack of awareness—especially among hiring managers and supervisors—can be a barrier to job access for people with disabilities. States can raise awareness in various ways, ranging from using the bully pulpit to external marketing campaigns; however training managers within state agencies is the most direct route to transforming workplace culture. States can also capitalize on their large human resources infrastructure to train managers on disability inclusion.

For example:

- In **Massachusetts** in 2015, [Executive Order 559](#) established the Office of Access and Opportunity and designated the newly-created deputy chair position responsible for developing comprehensive policy around best practices and removal of barriers to employment for individuals with disabilities in state government. The deputy chair is also tasked with developing an implementation and compliance plan to ensure state agencies become disability inclusive workplaces. In addition, Massachusetts has developed a disability awareness curriculum and provides [mandatory training](#) not only to hiring managers and supervisors, but also to state employees and ADA coordinators.
- In 2016, **Florida** enacted [FL HB7003](#), which implements mandatory training program for human resources personnel and hiring managers.

## APPENDIX: OVERVIEW OF FEDERAL POLICY INITIATIVES

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The Federal Government has adopted a multifaceted approach to supporting the recruitment, hiring, retention, and advancement of individuals with disabilities, including policies requiring federal agencies to become model employers of individuals with disabilities and requiring entities contracting with the Federal Government to adopt nondiscrimination policies, practices, and procedures and engage in affirmative action regarding individuals with disabilities.

### ***Federal Government as a Model Employer***

Section 501 of the Rehabilitation Act and [Executive Order No. 13548](#) *Increasing Federal Employment of Individuals with Disabilities* ([EO 13548](#)) require federal agencies to become model employers of people with disabilities. This section of the paper describes the key policies included in Section 501 and EO 13548.

[Section 501 of the Rehabilitation Act](#) requires federal agencies to become model employers and to take proactive steps to provide equal opportunity to qualified individuals with disabilities in all aspects of federal employment. The mandate to serve as a model employer requires several things. First, agencies may not discriminate against qualified individuals on the basis of disability. In 1992, Congress amended Title V of the Rehabilitation Act, including Section 501, to incorporate, by reference, the definition of disability and the employment-related non-discrimination standards of Title I of the Americans with Disabilities Act. The definition of disability was recently clarified in the [ADA Amendments Act of 2008 \(ADAAA\)](#). The ADAAA includes a conforming amendment to the Rehabilitation Act which explicitly incorporates, by reference, the definition of disability used in the ADA.

In addition to including non-discrimination provisions, [Section 501](#) also requires agencies to take proactive steps and adopt and implement an affirmative action plan to ensure equal employment opportunity for individuals with disabilities and individuals with targeted disabilities. In accordance with Equal Employment Opportunity Commission (EEOC) [regulations](#) (January 2017) implementing Section 501 and EEOC [Management Directive 715](#) (Spring 2017), the system of proactive steps includes efforts by federal agencies to prevent discrimination on the basis of disability before it occurs by periodically, carefully, and thoroughly evaluating and monitoring their employment practices to identify/detect barriers to employment and, where such barriers are identified, eliminate/remedy them.

Toward this end, each agency must develop and maintain “an affirmative action plan” for the hiring, placement, and advancement of individuals with disabilities, with a special focus on individuals with targeted disabilities. The affirmative action plan must provide, among other things, adequate employment opportunities and strategies for how an agency will meet the needs of its employees with disabilities. The affirmative action plan must be submitted to EEOC, must be updated annually, and must be reviewed annually and approved by EEOC.

More specifically, the affirmative action plan includes:

- Workforce utilization analysis;
- Establishment of goals for individuals with disabilities (12%) and individuals with targeted disabilities (2%); and
- Where necessary, steps to eliminate shortfalls, including:
  - Increased use of Schedule A excepted service hiring authorities;
  - Modification of personnel practices;
  - Disability-related training and education campaigns;
  - Additional outreach or recruitment efforts; and
  - Adoption of training, mentoring, and internship programs.

In addition, federal agencies must provide personal assistance services (PAS) to employees, who because of targeted disabilities, require such assistance in order to be at work or participate in work-related travel. PAS are services that help individuals with disabilities perform activities of daily living, including assistance with removing and putting on clothing, eating, and using the restroom.

Affirmative action does *not* include quotas or granting preferences to individuals with disabilities.

On July 26, 2010, President Obama signed [Executive Order No. 13548 Increasing Federal Employment of Individuals with Disabilities](#) to re-affirm the Federal Government as a model employer of individuals with disabilities, and to improve efforts to employ workers with disabilities through increased recruitment, hiring, and retention. Efforts to become a model employer include:

- Increasing the number of individuals with disabilities in the federal workforce by 100,000 over five years, including each agency establishing specific performance targets and numerical goals for employment of individuals with disabilities and sub goals for employment of individuals with targeted disabilities.
- Developing agency-specific plans for promoting employment opportunities for individuals with disabilities.
- Designating a senior-level agency official within the agency to be accountable for enhancing employment opportunities for individuals with disabilities and individuals with targeted disabilities.
- Increasing utilization of the Federal Government's "[Schedule A](#)" [excepted service hiring authority](#) for persons with disabilities and increasing participation of individuals with disabilities in internships, fellowships, and training and mentoring programs, including the [Workforce Recruitment Program](#) (WRP).

- Increasing agencies' retention, and return to work, of individuals with disabilities by using centralized funds to provide reasonable accommodations, increasing access appropriate accessible technologies, and ensuring the accessibility of physical and virtual workplaces.

### ***Federal Contractors and Nondiscrimination and Affirmative Action***

Section 503 of the Rehabilitation Act ([Section 503](#)) prohibits federal contractors and subcontractors from discriminating in employment against individuals with disabilities and requires these employers to take affirmative action to recruit, hire, promote, and retain these individuals. The [regulations](#) issued by [Office of Federal Contract Compliance Programs](#) (OFCCP) implementing Section 503 include nondiscrimination provisions similar to the provisions promulgated under Title I of the Americans with Disabilities Act (ADA). The [revised Section 503 regulations](#) and [sub regulatory guidance](#) also provide contractors with the tools needed to evaluate their own compliance and proactively identify and correct any deficiencies in their employment practices. The purpose of the affirmative action program requirement applicable to covered contractors is to set forth [OFCCP](#)'s general expectation that contractors' affirmative action programs will result in progress toward effectuating equal employment opportunity.

The [Section 503 regulation](#) establishes a seven percent workforce utilization goal for individuals with disabilities. The goal is not a quota or a ceiling that limits or restricts the employment of individuals with disabilities. Instead, the goal is a management tool that informs decision-making and provides real accountability. Failing to meet the goal alone is not a violation of the regulation and will not lead to a fine, penalty, or sanction. The contractor is also required to annually evaluate its utilization of individuals with disabilities. When the percentage is less than the utilization goal, the contractor must assess its personnel processes, outreach and recruitment efforts, audit results, and other areas that might affect the success of the affirmative action program. The contractor must then develop and execute action-oriented programs designed to correct any identified problem areas, including modifications of personnel processes. As part of a contractor's affirmative action obligation, the [Section 503 regulation](#) requires contractors to invite applicants to voluntarily self-identify as an individual with a disability at the pre and post offer stages using language and manner prescribed by [OFCCP](#). The contractor may not compel or coerce an individual to self-identify as an individual with a disability.

### ***Workforce Development and Vocational Rehabilitation***

Under the [Workforce Innovation and Opportunity Act](#) (WIOA), enacted on July 22, 2014, State Workforce Development Boards are authorized to work directly with employers and support the funding of services leading to self-employment. In addition, the State Vocational Rehabilitation (VR) Programs authorized under Title I of the Rehabilitation Act, as amended by Title IV of the WIOA, explicitly require State VR agencies to work with employers to:

- Identify opportunities for competitive, integrated employment and career exploration;
- Promote and recognize self-employment as a legitimate outcome of the VR program;

- Authorize the expenditure of VR funds to improve linkages with employers and to support self-employment services.

In addition, State VR agencies are required to coordinate and collaborate with other state agencies, including State educational agencies, State Workforce agencies, State Medicaid agencies, and State agencies responsible for the administration of programs for individuals with intellectual and developmental disabilities.

### ***Promising and Emerging Practices***

For a comprehensive review of promising and emerging practices used by federal agencies see:

- [\*Federal Agency Employment Strategies: A FRAMEWORK FOR DISABILITY INCLUSION\*](#); and
- [Summary of Promising and Emerging Practices for Enhancing the Employment of Individuals with Disabilities Included in Plans Submitted by Federal Agencies under Executive Order 13548.](#)

## EXAMPLES OF DISABILITY EMPLOYMENT POLICY OPTIONS RELATED TO PRIVATE SECTOR EMPLOYERS AND DISABILITY-OWNED BUSINESSES

In addition to steps Alaska can take to become a model employer of individuals with disabilities, the following state policy options related to private sector employment and disability-owned businesses identified in [Work Matters: A Framework for States on Workforce Development for People with Disabilities](#) or through research conducted by the [State Exchange on Employment & Disability](#) (SEED) may be helpful in enhancing the employment of individuals with disabilities.

This brief focuses on the following topics:

- [Build Capacity of Private Sector Employers](#), including building a pipeline connecting employers with qualified applicants and requiring affirmative action plans and goals for businesses contracting with state agencies; and
- [Incentivize Disability-Owned Businesses](#), including procurement goals, set-aside programs and procurement preferences.

### BUILD CAPACITY OF PRIVATE AND NONPROFIT SECTOR EMPLOYERS

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States can build the capacity of private-and nonprofit-sector employers to engage in disability diversity and inclusion efforts by adopting policies that:

- Extend diversity and inclusion (affirmative action) to businesses contracting with state agencies;
  - Use tax incentives to encourage business to hire qualified applicants with disabilities;
  - Explore tax credits for providing employment supports;
  - Provide technical assistance to businesses;
  - Develop and use pipelines linking businesses with qualified applicants;
  - Bring public and private sector employers together; and
  - Lessen administrative burdens on businesses.
- **Extend diversity and inclusion (affirmative action) to state government contractors** [[Work Matters Report](#), pages 34-35]
- [Connecticut](#), [Kentucky](#), [Maine](#), [Massachusetts](#), [Minnesota](#), [New Jersey](#), [Rhode Island](#) and [Wisconsin](#) include disability in the list of categories covered by affirmative action requirements applicable to entities that do business with state government.



➤ **Use tax incentives to encourage businesses to hire qualified persons with disabilities**  
[[Work Matters Report](#), page 37]

- [Delaware](#) provides a tax credit for employers in the state who hire individuals with disabilities referred by the state vocational rehabilitation (VR) program. The tax credit is equal to 10 percent of the employee's gross wages (not to exceed \$1,500) paid by the qualified employer in the course of that employee's sustained employment during the taxable year.
- [Iowa](#) provides employers a tax credit of 65 percent of wages paid in the first 12 months, up to \$20,000 per employee, for people with disabilities.
- [Louisiana](#) provides a tax credit of up to 50 percent of gross wages during the first four months of employment, and 30 percent of gross wages during each subsequent continuous month of employment. Employers are entitled to the deduction for each qualified individual with a disability that they employ during a taxable year. An employer can claim the deduction for no more than 100 employees in a particular organization.
- The [Maryland](#) Disability Employment Tax Credit (MDETC) allows employers to claim credit for employees with disabilities hired on or after December 31, 2014. For each taxable year, a credit is allowed in an amount equal to 30 percent of up to the first \$9,000 (\$2,700) of wages paid during the first and second years of employment. A credit of up to \$900 is also available to pay for qualified childcare or transportation expenses incurred during the first two years of employment.
- [New York's](#) Workers with Disabilities Employment Tax Credit provides up to \$2,100 per person for the second year of employment (35 percent of the first \$6,000 wages) for individuals receiving vocational rehabilitation services (with a written individual employment plan) from the state, or those who qualify for a Federal Work Opportunity Tax Credit (WOTC) for the first year. The state's [Workers with Disabilities Tax Credit Program](#) also provides tax credits for businesses that hire individuals with developmental disabilities. The tax credits are \$5,000 for full-time employment (30 hours or more per week), based on 15 percent of the individual's wages paid after January 1, 2015 for a period of employment no less than six months; and \$2,500 for part-time employment (between 8 hours and 30 hours per week), based on 10 percent of the individual's wages paid after January 1, 2015 for a period of employment no less than six months.

➤ **Explore tax credits for employment supports e.g., barrier removal, workplace accommodations, technology, transportation and child care** [[Work Matters Report](#), page 38]

- [Arizona](#) recently enacted legislation allowing for a subtraction of eligible business access expenditures paid or incurred in order to comply with the requirements of the Americans with Disabilities Act (ADA).
- The [Iowa](#) Assistive Device Tax Credit allows an eligible small business to claim a credit against corporate tax equal to 50 percent of the first \$5,000 paid during the tax year for

purchasing, renting or modifying an assistive device or making other workplace modifications for an employee with a disability.

- [Kansas](#) legislation allows any taxpayer who incurs expenditures for the purpose of making an existing facility accessible for people with disabilities, including making all or any portion of a facility or equipment usable for the employment of individuals with disabilities, to claim an income tax credit equal to 50 percent of the expenditures or \$10,000, whichever is less.
- Under the [Maryland](#) Disability Employment Tax Credit, employers can claim up to \$600 the first year and up to \$500 the second year against transportation or child care costs paid on behalf of the employee for each qualifying employee. If the credit is more than the tax liability, the unused credit may be carried forward for up to five tax years. Tax-exempt organizations can apply the credit against the tax on unrelated business taxable income.

➤ **Provide technical assistance to businesses (e.g., dedicated staff, single point of contact in VR agency, expand Governor’s committees, public awareness campaign)** [[Work Matters Report](#), page 33]

- The [Florida Governor’s Commission on Jobs for Floridians with Disabilities](#) has established an employer help desk within the [Abilities Work web portal](#) to provide a single point of contact to assist employers in navigating state and federal disability support systems.
- **South Dakota’s** [Ability for Hire](#) campaign provides links to critical resources and video testimonials from business owners, including their own experiences and realized benefits of hiring people with disabilities.
- The national network of the 80 state vocational rehabilitation programs supports the hiring of at least one business consultant in each state VR agency who functions as the designated point of contact with the business community ([National Employment Team](#), or NET).

➤ **Develop or use existing data bases of persons with disabilities looking for employment] and link businesses and qualified applicants** [[Work Matters Report](#), page 36]

- The [Talent Acquisition Portal®, or TAP](#) is an online system that includes both a national talent pool of VR candidates looking for employment and a job posting system for businesses looking to hire individuals with disabilities.
- **Ohio’s** [Ohio Means Jobs](#) website established by [OH HB 3](#) includes hiring and making accommodations for employees with disabilities services as a core element.
- **Florida’s** [Abilities Work web portal](#) encourages businesses to post open positions to the Employ Florida Marketplace and utilize a [help desk](#) to source candidates from the state vocational rehabilitation client lists.

- Utah’s [PWDNET job opening program](#) allows businesses that have undergone accommodations and disability hiring training to flag job postings on the statewide job board, thus encouraging people with disabilities to apply.
- **Convene task force or summit bringing public and private employers together, including identifying business champions** [[Work Matters Report](#), page 35]
  - South Dakota’s [Employment Works Task Force](#) focused on strategies to engage businesses, identifying successful strategies and actionable next steps.
- **Explore coordinated strategies to support business hiring efforts, lessen administrative burdens, and engage in education and outreach to increase resource utilization** [[Work Matters Report](#), page 36]
  - The Rhode Island [Governor’s Commission on Disability](#) provides support to state agencies, people with disabilities, and businesses looking to increase disability hiring and inclusion. The commission offers resources to businesses on ADA compliance, reasonable accommodations and recruitment.
  - The U.S. Department of Labor’s “[Add Us In](#)” Initiative worked with a cohort of states and cities to develop strategies “connecting small businesses with untapped talent—people with disabilities.”

## **INCENTIVIZE ESTABLISHMENT OF DISABILITY-OWNED BUSINESSES**

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According to the [National Conference of State Legislatures](#), an overwhelming majority of states and the District of Columbia and Puerto Rico have adopted [state-level minority owned \(MBE\) and/or women-owned \(WBE\) programs](#). In addition, a number have adopted policies that encourage the establishment of disability-owned businesses, including procurement goals, set-aside programs and preferences. In addition, some state programs make training, technical assistance and financial assistance available through grants and loans. In every one of these states, the set-aside programs, procurement preferences and support programs include a *business certification component* that establishes qualifications for participation.

This section of the brief includes:

- Definitions of key terms;
- State agency goals and considerations;
- Procurement set-aside programs;
- Procurement preferences;
- Training, technical assistance, and grant and loan programs, and
- State certification procedures.

## DEFINITIONS OF KEY TERMS

The most common programs that advance socioeconomic goals are *set-aside* and *preference* programs. According to the [National Association of State Procurement Officials](#):

- *Procurement set-aside programs* entail limiting bidding for a contract only by a designated and identified group of firms.
- *Procurement preferences* include a price procurement preference that gives an identified group of firms a “point” advantage in evaluating and scoring bids during negotiations and award and/or a set percentage reduction that is applied to bids from identified groups that make their bids more competitive when evaluating the proposal and determining the award.

*Definitions of Disability.* The state set-aside and price preference programs include a range of definitions of “**disability**” for purposes of public contracting based on definitions used in Title I of the Rehabilitation Act (state vocational rehabilitation program) and the Americans with Disabilities Act (ADA).

As you may know, [Alaska](#) generally uses the federal definition of an individual with a significant disability under Title I of the Rehabilitation Act for purposes of its procurement preference program (see below). That definition is: a person with a disability is an individual who has a severe physical or mental disability that seriously limits one or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance and work skills) in terms of employment; whose physical or mental disability results from a specified list of impairments; and whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.

Additional state examples include:

- [Connecticut](#) defines an individual with a disability as “an individual (A) having a physical or mental impairment that substantially limits one or more of the major life activities of the individual, which mental impairment may include, but is not limited to, having one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association’s “[Diagnostic and Statistical Manual of Mental Disorders](#),” or (B) having a record of such an impairment.”
- [Illinois](#) defines “disabled” as including a list of impairments comparable to those used in Alaska and which substantially limit one or more of the person’s major life activities. The definition also authorizes individuals with impairments to be considered “disabled” if an evaluation of rehabilitation potential indicates the impairment causes a comparable degree of substantial functional limitation.

- [Minnesota](#) uses the definition of disability under the ADA as the starting point, but limits the definition to individuals with physical disabilities (not mental disabilities). In this case, disability means a physical impairment that substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment.
- [Ohio](#): In Ohio, persons with disabilities are eligible for certification if they can demonstrate economic disadvantage (based on economic and business size thresholds) and “social disadvantage” based on a rebuttable presumption “when the business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to...physical disability, long-term residence in an environment isolated from the mainstream of society.” A “socially disadvantaged person” is further defined in the Ohio statutes as including—among other things—“a business owner’s chronic physical or mental disability that has led to discriminatory practices against the person and that has restricted professional acceptance, employment or access to capital and credits.”
- [Pennsylvania](#) defines disability as a physical or mental impairment, or both, that substantially limits one or more major life activities and can be demonstrated by appropriate documentation from a licensed vocational rehabilitation specialist, an agency that issues disability benefits or a licensed medical professional.

➤ **STATE AGENCY GOALS AND CONSIDERATIONS** [[Work Matters Report](#), pages 84-85]

Four states (Delaware, Kentucky, North Carolina and Rhode Island) have adopted strategies that facilitate the establishment of disability-owned businesses through the procurement process, without technically establishing a set-aside program. These strategies include:

- Requiring consideration of quotes from designated businesses, including disability-owned businesses;
- Promoting and publicizing opportunities to contract for goods and services; and
- Identifying disability-owned businesses on a special vendor list.

**Delaware:** In 2014, Governor Markell of Delaware issued [Executive Order 44](#) adding businesses owned by individuals with disabilities to the [state’s supplier diversity efforts](#). As part of Executive Order 44, all state executive agencies were asked to modify their supplier diversity plans to include Small Business Focus (SBF) Program companies in their under-threshold purchase outreach. Currently, for purchases under the threshold, procurement officers need to seek three quotes, *and one of the three quotes must be from a business listed in the Directory of Diverse Suppliers, which now include businesses owned by individuals with disabilities*. Agencies are also being asked to ensure that the second of three quotes is sought from a business listed in the SBF Program. (See additional information about Delaware on page 8.)

**Kentucky** has established a [policy](#) that requires executive branch agencies to promote and publicize opportunities for service-disabled veteran-owned businesses to contract for goods and services and actively engage and counsel veterans' organizations on contract opportunities.

**North Carolina's** [Historically Underutilized Business \(HUB\) program](#), which includes disability-owned businesses, lists firms in the State's Division of Purchases and Contracts HUB vendor directory (Vendor Link System) used by state agencies, universities and colleges, local schools, and governments for their purchase of goods, services and construction.

**Rhode Island's** [Disability Business Enterprises Act](#) and implementing [regulations](#) create a Disability Business Enterprise Committee within the Governor's Commission on Disabilities. The Act also requires state agencies and the Division of Purchasing to periodically conduct meetings with such businesses, as appropriate, to inform them of procurement opportunities; and requires the Division of Purchasing to submit an annual report.

➤ **PROCUREMENT SET-ASIDE PROGRAMS** [[Work Matters Report](#), pages 84-85]

Five states have established set-aside programs:

- Connecticut
- Illinois
- Iowa
- Massachusetts
- Ohio

These state set-aside programs limit bidding for a contract only by a designated and identified group of firms, including, among others, disability-owned business enterprises and/or service-disabled veteran-owned business enterprises. Some states include disability-owned businesses in the overall set-aside for disadvantaged groups whereas other states have different set-aside percentages for each disadvantaged group.

[Connecticut's Supplier Diversity Program](#) requires state agencies and political subdivisions of the state other than municipalities that have annual contracting budgets of more than \$10,000 to set aside at least 25 percent of their budgets each fiscal year for small contractors. Of this set-aside, 25 percent must be reserved for awards to minority business enterprises, including disability-owned businesses.

[Illinois Business Enterprise program](#) establishes that not less than 20 percent of the total dollar amount of state contracts is the goal for all DBEs. These represent minimum goals of 11 percent for minority-owned businesses, 7 percent for female-owned businesses and 2 percent for disability-owned businesses.

[Iowa's Economic Development Set-Aside program](#) includes targeted small businesses as Iowa for-profits with average annual gross incomes of less than \$4 million that are owned, operated and actively managed by minorities, women, service-disabled veterans or persons with a qualifying disability. Under the program, all state agencies and departments are required to set annual procurement goals from certified targeted small businesses. Similarly, community colleges, area education agencies and school districts are required to establish a procurement goal from such businesses of at least 10 percent of their annual procurement budget, including construction but not utility services. Of these total procurement goals, an additional goal must be set to procure at least 40 percent from service-disabled veteran-owned businesses.

Under **Massachusetts'** [Executive Order 565](#), the state's [supplier diversity program](#) (SDP) was expanded to include disability-owned businesses. State agencies are required to meet or exceed SDP target spending benchmarks as well as participate in related reporting activities established by the Office of Supplier Diversity.

[Ohio's Encouraging Diversity, Growth and Equity \(EDGE\) program](#) is open to small businesses that can demonstrate both social disadvantage—including physical and mental disability—as well as economic disadvantage, based on the wealth of the business seeking certification. EDGE is marketed as both a set-aside and an assistance program for these small businesses.

➤ **PROCUREMENT PREFERENCES** [[Work Matters Report](#), pages 84-85]

Alaska and four other states have established procurement preferences:

- Kansas
- Maryland
- Minnesota
- Pennsylvania

These state procurement preferences vary in approach. Some include a price-procurement preference that gives an identified group of firms, including disability-owned business enterprises and/or service-disabled veteran-owned business enterprises, a “point” advantage in evaluating and scoring bids during negotiations and award and/or a set percentage reduction that is applied to bids from identified groups that make their bids more competitive when evaluating the proposal and determining the award.

The [Alaskans with Disabilities Preference](#) program provides that if a qualified **Alaska** bidder or offeror is a business owner with a disability, a 10 percent preference shall be applied to their price in the bid or proposal. It also defines what qualifies as disability-owned for a sole proprietorship, partnership, limited liability company, corporation or joint venture; requires that to qualify for this preference: the vendor must be on a list maintained by the Division



of Vocational Rehabilitation in the Department of Labor and Workforce Development at the time the bid or proposal is opened; and must not claim more than one disability-related preference for the same bid or offer.

The [Kansas Bidder Preference](#) Program provides that a contract shall be awarded to a certified, responsible bidder for which at least 10 percent of its employees are Kansas residents with disabilities or that is owned by a disabled veteran, whose total bid cost is not more than 10 percent higher than the lowest competitive bid.

Maryland's [Employment Works program](#) was amended by [HB 1537](#) to include disability-owned businesses. Maryland requires all state and state aided or controlled agencies to exhaust a procurement preference priority list for the purchase of supplies and services before engaging in procurement from general business.

Under [Minnesota's price preference program](#), small businesses that are majority-owned by women, racial minorities or persons with a substantial physical disability can apply for state certification and be eligible for a state procurement preference (i.e., up to six percent price preference in bidding on goods and/or services.)

Pursuant to [Executive Order 2015-11](#), **Pennsylvania** established the [Small Diverse Business Program for Procurement](#), which encourages and ensures that open and equitable contracting practices are used by prime contractors in soliciting and contracting with small diverse businesses during the Request for Proposal (RFP) procurement process. Under the program, all offerors must submit a Small Diverse Business proposal indicating the extent to which they will contract with small diverse business partners. The Small Diverse Business and Small Business Participation criterion is 20 percent of the total number of points allocated for the RFP. Also, the [Small Business Contracting Program](#) is established for the purpose of providing opportunities for small businesses to compete for prime contracting opportunities.

➤ **TRAINING, TECHNICAL ASSISTANCE, AND GRANT AND LOAN PROGRAMS**  
[[Work Matters Report](#), pages 87-88]

The twelve states listed below have adopted initiatives that include authority to provide training, technical assistance and financial assistance in the form of grants and loans to disability-owned businesses:

- Delaware
- Illinois
- Iowa
- Kentucky
- Maryland

- Michigan
- Minnesota
- Nebraska
- Ohio
- Pennsylvania
- Rhode Island
- Wisconsin

State initiatives vary in scope and purpose, including:

- Creation of a registry of eligible businesses;
- Establishment of advisory committees;
- Promotion and publicity of business opportunities;
- Technical assistance, training and mentoring; and
- Loans and grants.

Governor Markell of **Delaware** issued [Executive Order 44](#) adding businesses owned by individuals with disabilities to the state's supplier diversity efforts. Executive Order 44 expands the scope of the Governor's Supplier Diversity Council to include the study and consideration of how the Delaware does business with enterprises owned by individuals with disabilities as well as certain small businesses. It also creates the new Small Business Focus (SBF) program, which creates a registry of eligible small businesses, measures and analyzes state agency funds expended for procurement with eligible businesses, and revises agency Supplier Diversity Plans to direct state agencies to access the registry when making under-threshold procurements.

The **Illinois** Participation Loan Program allows eligible businesses owned by minorities, women and people with disabilities to access loans through the [Illinois Participation Loan Program](#).

The **Iowa** program notes that certified targeted small businesses, which include service-disabled veterans and persons with a qualifying disability, are eligible for financial and technical assistance; the [Targeted Small Business Certification Website](#) indicates that this assistance can include microloans of up to \$50,000 through the [Iowa Center for Economic Success](#).

**Kentucky** established a [policy](#) that requires executive branch agencies to promote and publicize opportunities for service-disabled veteran-owned businesses to contract for goods

and services and actively engage and counsel veterans' organizations on contract opportunities.

The [Maryland WorkABILITY Loan program](#) helps residents with disabilities start a small business. The program provides low-interest loans (\$500-\$50,000) to qualified candidates who are starting a small business. Loans can be used for, among other things, telecommunications equipment, office machines and accessible home office furnishings.

Under the [Michigan Employment Loan Program](#), individuals with disabilities who are planning on starting and/or expanding a home-based business can secure low-interest loans for up to \$20,000 for a period of one to five years. Loans can be used for, among other things, telecommunications equipment, office machines and accessible home office furnishings.

The [Minnesota Emerging Entrepreneurship Program](#) provides grants to nonprofits to provide loans to small businesses owned by women, minorities, veterans and people with disabilities.

The [Abilities Fund](#) operates in **Nebraska** and other states and provides technical assistance and training to entrepreneurs with disabilities interested in starting or expanding a business.

Under **North Carolina's** [Historically Underutilized Business \(HUB\) program](#), which includes disability-owned businesses, firms are eligible for technical assistance offered by the HUB program.

The **Ohio** [Encouraging Diversity, Growth and Equity \(EDGE\) Program](#) requires the Development Services Agency to provide assistance and mentoring opportunities to EDGE business enterprises, which includes socially disadvantaged individuals with a physical or mental disability.

**Pennsylvania's** [Executive Order 2015-11](#) mandates the establishment of the Advisory Council on Diversity, Inclusion and Small Business Opportunities. In accordance with the Executive Order, the [Department of General Services' Bureau of Diversity, Inclusion & Small Business Opportunities \(BDISBO\)](#) was established and is responsible for assisting small and diverse businesses, including Service-Disabled Veteran Business Enterprises and Disability-Owned Business Enterprises in competing for Commonwealth contracting opportunities.

The **Rhode Island** [Disability Business Enterprises Act](#) and implementing [regulations](#) support the fullest possible participation of disability-owned small businesses in state contracts and purchases, including assisting them throughout the life of contracts in which they participate. The program also creates a Disability Business Enterprise Committee, within the Governor's Commission on Disabilities, which is responsible for certifying disability-owned

small businesses and setting formulas for awarding contracts to them. It also requires state agencies and the Division of Purchasing to periodically conduct meetings with such businesses, as appropriate, to inform them of procurement opportunities and requires the Division of Purchasing to submit an annual report.

Wisconsin's [Veterans Employment and Entrepreneurship Grant Program](#) creates a veterans' employment and entrepreneurship grant program, under which the Department of Veterans Affairs may, among other things, award grants each year to assist veteran entrepreneurs.

➤ **STATE CERTIFICATION PROCEDURES** [[Work Matters Report](#), page 86]

In every state, the set-aside programs, procurement preferences and support programs include a business *certification* component that establishes qualifications for participation; however, the eligibility qualifications, applications processes, forms, certification periods and lead agencies managing the process may vary.

As you may know, **Alaska** requires the vocational rehabilitation agency to certify disability-owned small businesses.

Additional state examples include:

- In **Delaware**, the [Office of Diversity](#) is authorized to certify disability-owned businesses.
- The **Iowa** Department of Inspections and Appeals operates the Targeted Small Business Certification program. However, applicants with disabilities must verify that they are eligible to receive services from the Iowa Department of Education, Division of Vocational Rehabilitation or the Iowa Department of the Blind or provide verification from a health care provider attesting to the nature of the disability.
- The **Kansas** Department of Administration oversees the state's program and is responsible for certifying businesses under the price preference program.
- **Minnesota** only requires affirmation of status from a physician. In **Connecticut**, the Department of Administrative Services, Office of Supplier Diversity is responsible for identifying and certifying disability-owned businesses.
- In **North Carolina**, firms applying under the disability category of the Historically Underutilized Business (HUB) program must submit a Disability Affidavit to the North Carolina Department of Administration, Office for HUBs.
- **Ohio's** Department of Administrative Services, Minority Business Enterprise, Diversity, Growth, and Equity (EDGE) Unit is responsible for the certification process.
- In **Rhode Island**, the [Disability Business Enterprises Act](#) and implementing [regulations](#) create a Disability Business Enterprise Committee, within the Governor's

Commission on Disabilities, which is responsible for certifying disability-owned small businesses.

The [U.S. Business Leadership Network \(USBLN\)](#) established the [Disability Supplier Diversity Program \(DSDP\)](#), which is the leading third-party certifier of disability-owned businesses, with comprehensive initiatives to help them vie for contract opportunities with corporations and government entities. The USBLN certification is currently recognized by more than 100 Fortune 500 and Fortune 1000 corporations and several government entities. USBLN offers three certifications:

- **Disability-Owned Business Enterprise (DOBE)** Application is available to any business that is at least 51 percent owned, managed and controlled by a person with a disability.
- **Veteran DOBE (V-DOBE)** This certification applies to a business enterprise that is owned by a veteran with a disability, and the disability is not related to their time of service. Veteran must provide DD214 for status as a veteran.
- **Service-Disabled Veteran DOBE (SDV-DOBE)** This certification applies to business enterprises owned by veterans with disabilities, whose disabilities are related to their time in service. The SDV-DOBE certification aligns with the U.S. Department of Veterans Affairs (VA) verification program. Certain government documentation is required for the SDV-DOBE Certification. An expedited process is available for businesses that provide a verification letter from the VA.

Basic requirements for certification under all three include:

- Business must be at least 51 percent owned, managed and controlled by a person with a disability.
- Must be a U.S. citizen or permanent resident with a business headquartered in the U.S.
- Must have a disability as defined by the first prong of the ADA, as amended by the Americans with Disabilities Amendments Act (ADAAA)

To determine disability status, applicants must submit **one** document from the following options:

- Records, statements or other documentation issued from a licensed, registered or certified vocational rehabilitation specialist (i.e., State or private) stating that the applicant individual is a person with a disability;
- Records; statements; or other documentation issued from any federal agency, state agency or an agency of the District of Columbia or a U.S. territory that

issues or provides disability benefits stating that the applicant individual is a person with a disability; or

- USBLN Physician's Certification of Disability Form from a licensed medical professional (e.g., a physician or other medical professional duly certified to practice medicine by a state, the District of Columbia, or a U.S. territory) stating that the applicant individual is a person with a disability.

With the exception of the USBLN Physician's Certification of Disability Form, all documentation from the above list must be accompanied by a Disability Status Qualifier Supplemental Form.

To determine status as a Service Disabled Veteran, applicants must submit **both** of the following:

- Department of Defense Form 214, discharge or separation papers or equivalent; and
- VA issued disability rating letter stating that the veteran has a service-related disability or a Statement of Service from the U.S. Department of Defense's National Archives and Records Administration, stating that the veteran has a service-related disability.

The USBLN Certification Committee reserves the right to request further information and documentation of disability status from all applicants.

For example, several states use the USBLN certification process and requirements to certify disability-owned businesses, including service-disabled veteran owned businesses.

Under **Massachusetts's** [Executive Order 565](#), the state's [supplier diversity program](#) (SDP) was expanded to include disability-owned businesses. USBLN has signed a Memorandum of Understanding (MOU) with the Commonwealth, which names USBLN the exclusive certifier of disability-owned business enterprises and the primary certifier of service-disabled veteran-owned business enterprises. The USBLN works closely with the Commonwealth to provide them with lists of USBLN certified suppliers. In addition, if a supplier identifies as having a disability to the Commonwealth, the supplier is directed to USBLN and is put through the standard USBLN certification process.

**Pennsylvania** Governor Tom Wolf signed [Executive Order 2015-11](#) to expand the [Bureau of Diversity, Inclusion and Small Business Opportunities](#) to include more diverse segments in [state contracting opportunities](#), including disability-owned businesses. As part of the implementation of the EO 2015-11, the Commonwealth of Pennsylvania [issued guidelines](#) and signed a letter of agreement with USBLN as the third-party entity certifying disability-owned businesses and will partner on promoting the utilization of certified DOBEs by the state's procurement organization.