INCREASING THE RATES OF EMPLOYMENT AMONG PEOPLE WITH DISABILITIES IN THE UNITED STATES

by
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Abstract
There is a problem of low absolute and relative employment rate among individuals with disabilities in the United States, with a secondary problem of the state vocational rehabilitation programs that are meant to help jobseekers with disabilities being less effective than desired. This issue negatively affects the individuals with disability, their families, and the wider society. Therefore, policy action is proposed to encourage state vocational rehabilitation programs and their community partners to significantly engage with employers as valued employment allies through requiring states to spend at least 30% of their vocational rehabilitation funding on activities involving employers.

In this paper, the policy advantages and limitations, as well as the political benefits and drawbacks of this proposal are also explored. Policy-wise, despite its limitations, the proposal seems likely to increase state vocational rehabilitation programs’ engagement with employers at a relatively low cost through administratively feasible changes. Politically, the proposal is likely to be supported by the relevant disability employment partners while also benefiting supportive congress members. Additionally, the paper describes potential mechanisms to reduce some of the political drawbacks. In conclusion, since the proposed policy was analyzed to be effective, cost-efficient and a politically feasible way of increasing employer engagement to improve the rates of disability employment across the country, its implementation is recommended.

Advisor: Professor Paul Weinstein
# Table of Contents

I. Action Forcing Event .................................................. 1  
II. Statement of the Problem ............................................. 1  
III. History/ Background ................................................ 6  
IV. Policy Proposal ...................................................... 17  
V. Policy Analysis .......................................................... 23  
VI. Political Analysis ..................................................... 30  
VII. Recommendation .................................................... 39  
      Curriculum Vitae ..................................................... 41
## List of Figures

<table>
<thead>
<tr>
<th>Title</th>
<th>Page Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Figure 1. Social Outcomes Associated with Disability and Employment</td>
<td>2</td>
</tr>
<tr>
<td>Figure 2. Impact of Contact with Individuals with Disabilities in Workplaces</td>
<td>4</td>
</tr>
<tr>
<td>Figure 3. 2015 Average Case Closure Times in State Vocational Rehabilitation Programs</td>
<td>5</td>
</tr>
<tr>
<td>Figure 4. 2015 Outcome Quality Across State Vocational Rehabilitation Programs</td>
<td>5</td>
</tr>
<tr>
<td>Figure 5. Disability Employment Rates Over the Years</td>
<td>10</td>
</tr>
<tr>
<td>Figure 6. Comparison of Employment Rates between People with and without Disabilities by State</td>
<td>12</td>
</tr>
<tr>
<td>Figure 7. Policy Areas related to Disability Employment that States are Currently Focusing on</td>
<td>14</td>
</tr>
<tr>
<td>Figure 8. Prevalence of Employer-Related State Legislations between States with High and Low Disability Employment Rates</td>
<td>16</td>
</tr>
<tr>
<td>Figure 9. Differences in Service Expenditure Percentages between States</td>
<td>17</td>
</tr>
<tr>
<td>Figure 10. Calculated Employment Rate Difference between People with and without Disabilities by State</td>
<td>30</td>
</tr>
</tbody>
</table>
MEMORANDUM

TO CONGRESSMAN GREGG HARPER
FROM CLARA LI LING LOH
DATE DECEMBER 5, 2017
SUBJECT INCREASING DISABILITY EMPLOYMENT RATES

I. Action Forcing Event

The release of 2016 Annual Disability Statistics Compendium earlier this year in February by the federally designated Institute on Disability highlights persisting wide differences in employment rates of adults with and without disabilities. The study showed that in 2015, only 34.9% of adults with disabilities between the ages of 18 and 64 living in the community were employed.1 This is in contrast to the 76% of employed adults of similar age range without disabilities.2 At the same time, the employment rates of people with disabilities vary widely between states, with 57.1% of people with disabilities in Wyoming being employed but only 25.4% of people with disabilities in West Virginia finding employment.3

II. Statement of the Problem

The study highlights the problem of low absolute and relative employment rate among individuals with disabilities. In the United States, there are about 20

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2 Ibid.
million people with disabilities in the working age range of 18 to 64 who are living in the community. An employment rate of 34.9% therefore means that more than 13 million adults with disabilities are not receiving the financial, psychological, and social benefits of work. This lack of work income contributes to the 27.1% poverty rate for people with disabilities, which is 2.2 times higher than the poverty rate for people without disabilities. In addition, work has become a way to broaden social connections and support one’s identity as an independent adult. Work therefore correlates with higher life satisfaction, higher self-esteem, and lower levels of depression.\(^6\) \(^7\) \(^8\) Figure 1 shows how unemployed people with disabilities are faring significantly worse across a range of social outcomes compared to people without disabilities and employed people with disabilities.

**Social Outcomes Associated with Disability and Employment**

![Figure 1. Social Outcomes Associated with Disability and Employment.](image)


The low employment rate of individuals with disabilities also has an extended impact on families. While disability itself places significant demands on many families, an unemployed adult with disability extends and exacerbates many of these demands.\textsuperscript{10} A study found that 48\% mothers of adults with disabilities did not work due to their continued caregiving responsibilities, as compared to only 24\% of parents whose grown child does not have a disability.\textsuperscript{12} Furthermore, the mothers who worked did so for less than half the mean number of hours of comparison group mothers, while fathers either worked part time to support their wives or worked much longer hours to maintain the family’s finances.\textsuperscript{13} In another study, parents caring for adult offspring with disabilities continued to have less frequent contact with their friends and reported significantly more physical negative health symptoms than the group of comparison parents.\textsuperscript{14}

On a societal level, a low rate of disability employment also contributes to a high number of Social Security Disability Insurance (SSDI) beneficiaries.\textsuperscript{15} In 2016, there were nearly 9 million beneficiaries and $143 billion in SSDI spending.\textsuperscript{16} The low employment rate also means less payroll taxes collected to fund both SSDI


\textsuperscript{13} Ibid.


and other necessary government spending.\textsuperscript{17} In addition, research shows that personal experience with an individual with disability through common activities like work predicted reduced disability-related stigma and increased empathy among co-workers without disability for their peers with disability.\textsuperscript{18, 19, 20} Figure 2 portrays the findings from Tachibana and Watanabe on how attitudes towards people with intellectual disabilities improve through work interaction.\textsuperscript{21} Having fewer people with disabilities in the workplace therefore means a slower dispelling of disability-related stigma and prejudices.\textsuperscript{22}

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{impact_of_contact.png}
\caption{Impact of Contact with Individuals with Disabilities in Workplaces.\textsuperscript{23}}
\end{figure}

\textsuperscript{17} Ibid.
\textsuperscript{23} Tachibana and Watanabe, “Attitudes of Japanese Adults toward Persons with Intellectual Disability”, 109-126.
A secondary problem is that the significant amounts of government investment aimed at increasing disability employment have not effectively produced a corresponding improvement in the low disability employment rates. For example, in 2015 alone, the State Vocational Rehabilitation Services (VR) Program, spent a total of $98 million. However, these resources do not translate equally into increased disability employment across all states. Taken together, figure 3 and 4 shows that although some state VR programs are taking significantly longer to close a client case on average, this increased time and thus resources spent per client has no correlation with the number of successfully employed clients. This suggests that efforts to make service provision more efficient are necessary across states.

Figure 3. 2015 Average Case Closure Times in State Vocational Rehabilitation Programs.  
Figure 4. 2015 Outcome Quality Across State Vocational Rehabilitation Programs.

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26 U.S. Department of Education, "Vocational Rehabilitation State Grants".
28 Ibid.
III. History/ Background

The passage of the Smith-Sears Veterans Rehabilitation Act of 1918 was the federal government’s first foray into policy dealing with the employment of people with disabilities. Around 120,000 soldiers returned with acquired disabilities, roughly the same number as soldiers who lost their lives. This sudden increase in people with disabilities of working age and with previous active involvement in community prompted policy action to help reintegrate these individuals back into the workplace. Federal grants were therefore appropriated for state-based vocational rehabilitation services for the veterans with disabilities. The 1920 expansion of this vocational rehabilitation program through the Smith-Fess Act to include any person with a physical disability regardless of military status marked the start of the State Vocational Rehabilitation Services (VR) Program.

There were subsequent amendments to expand the Rehabilitation Act’s covered populations and services provided. In addition, Social Security’s framework was also amended to protect workers who acquired disabilities. When these services and population expansion went beyond the state program’s expertise,

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29 Public Law 65-178
31 Ibid.
states contracted with community providers. However, it was only from the 1970s that disability employment policies started to place emphasis on employers. In 1973, the Rehabilitation Act was amended to require federal employers and contractors to provide accommodations and affirmative action for their employees. This made federal employers responsible for proactively preventing discrimination against people with disabilities in their workplaces, and to make any necessary and reasonable accommodations for employees.

A few years later in 1990, the landmark American Disabilities Act was enacted. This act was a comprehensive civil rights act affirming the full inclusion for people with disabilities, including their right to employment opportunities. The act greatly expanded the range of employers who are not to unduly discriminate against people with disabilities in all employment practices, now including all public and private employers with 25 or more employees. Through this, people with disabilities have a wider range of choices and opportunities to interview for jobs, demonstrate their abilities, and be hired in a workplace. Finally, individuals who believe they have faced employment discrimination due to a disability can also seek mediation and legal relief based on the act.

41 Ibid.
In the same decade, demand-side job development and employer partnerships started drawing more attention. VR agencies were encouraged to adopt a dual customer approach that not only focuses on individuals with disabilities but also includes meeting the needs of businesses.\textsuperscript{42} \textsuperscript{43} For example, the Council of State Administrators of Vocational Rehabilitation established a Business Relations department that has a representative from all 80 state VR agencies, and which subsequently formed the National Employment Team (NET).\textsuperscript{44}

Next, Congress moved to integrate the disability rehabilitation services with the other federally supported job training programs for greater efficiency and expertise sharing. This was done through the 1998 Workforce Investment Act, where states receive block grants to provide a one-stop delivery system for any individual needing help in securing employment.\textsuperscript{45} For individuals with disabilities, this act directed qualified personnel towards supporting their employment needs.\textsuperscript{46} At the same time, the act emphasized the employer’s importance in the partnership. The act instituted accountability measures for state services relating to customer satisfaction of both the job seeker and the employer, encouraging strong ties between employers and state-backed service providers.

\textsuperscript{44} Ibid.
providers. Furthermore, by creating a single point of contact, the act made it easier for employers to use these services to find job-ready and relevantly skilled employees.\footnote{Employment and Training Administration, “The “Plain English” Version of the Workforce Investment Act of 1998”, \textit{United States Department of Labor}, last modified September 1998, \url{https://www.doleta.gov/usworkforce/wia/Runningtext.cfm}.}

In 2001, former President George W. Bush also announced the New Freedom Initiative.\footnote{The White House, “President’s New Freedom Initiative”, \textit{New Freedom Initiative: Americans with Disabilities}, accessed October 3, 2017, \url{https://georgewbush-whitehouse.archives.gov/infocus/newfreedom/}.} The initiative sought to implement innovative employment practices in the federal government that would further benefit people with disabilities, such as telework and the formation of disability coordinating councils.\footnote{Ibid.} At the same time, he directed various government agencies to evaluate their policies and programs with the aim of improving the availability of community-based services, including employment support, customized employment for individual job seekers, and transition to work for youths with disabilities. The initiative also prompted the Office of Disability Employment Policy to start providing technical assistance to and increasing oversight of employers who are allowed to pay lower than federally-approved minimum due to their hiring of significant numbers of people with disabilities with limited work limited work capacity.\footnote{Department of Labor, “Independence through Employment: New Freedom Initiative 2002”, \textit{action}, accessed October 3, 2017, \url{https://www.dol.gov/odep/documents/cd792530_6ff8_43c2_aad8_08569c6a3a64.pdf}.}

Despite the implementation of all these policies, Figure 5 shows a persistent
employment gap between people with and without disabilities.\textsuperscript{51} \textsuperscript{52}

Figure 5. Disability Employment Rates Over the Years.

The data is retrieved from two different national surveys since the current widely used Current Population Survey for disability employment statistics was not yet established in the 1970s.

The historical data however, might not reflect the impact of newer policies. Most recently, the Workforce Innovation and Opportunity Act was passed in 2014.\textsuperscript{53} It significantly modifies current disability employment processes, which might in turn have significant positive impacts on future disability employment rates. This act replaced the 1998 Workforce Investment Act and works to establish unified strategic planning and integrated operations across various workforce programs

\begin{flushleft}
\textsuperscript{52} K. Lisa Yang and Hock E. Tan Institute on Employment and Disability, “Disability statistics”.
\textsuperscript{53} Workforce Innovation and Opportunity Act, 113 H.R. § 803 (2014).
\end{flushleft}
beyond physical proximity. The VR Program will represent the interests of individuals with disabilities and will work with employers within the integrated state framework to identify competitive integrated employment opportunities.

This clear intention of how state programs were to work together was in strong contrast with what was happening at the federal level. In a 2012 report, the Government Accountability Office identified 45 fragmented, overlapping, and generally uncoordinated programs administered by nine federal agencies to support the employment of people with disabilities.

The Workforce Innovation and Opportunity Act also allows the VR program to work closer with employers in providing work-based transitory learning experiences such as apprenticeships and internships. Early provision of transition services to youths with disabilities is a best practice widely supported by a range of research across disability types, especially if these services include work experiences in the real world. Cimera et al. further noted that services that start early even reduces the cost of these provided services.

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At the state level, the widely divergent disability employment outcomes across states despite the levelling power of federally imposed guidelines could also possibly be due to the differences in state economies. A good state economy could be driving up employment rates of both people with and without disabilities in the state. Figure 6 visualizes the statistics from the 2016 Annual Disability Statistics Compendium and partially supports this idea, with states generally following a diagonal line from the bottom left to the top right of the graph.67

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64 Gillian A. King, Patricia J. Baldwin, Melissa Currie and Jan Evans, “Planning Successful Transitions from School to Adult Roles for Youth with Disabilities”, Children’s Health Care 24, no. 3 (2005): 195-216.


However, if the state economies were the only driver of disability and non-
disability employment rates, the correlation would have been more perfect, with all states falling within the white areas stretching diagonally across the chart. Yet, a good number of states having higher or lower than expected disability employment rates when compared to their non-disability employment rates. These states are found closer to the upper left corner or lower right corner of the chart respectively, with states such as Nevada, Colorado and Maine at the extremes. This suggests that there are factors other than the economy that could potentially be influenced to increase disability employment rate in the state.

One such factor could be the type of state legislation enacted. Most states have targeted disability employment through many different policies, with no obvious patterns differentiating states of high and low disability employment rates. Figure 7 below shows the spread of legislations between policy areas from in 2016 and early 2017. Each blue dot represents a state that has enacted or adopted at least one legislation in that policy area, and each line connects policy areas that are addressed in the same legislation. During this period, 46 states adopted or enacted a total of 325 bills in which disability employment issues were targeted. The top three policy areas these legislations fall under are “disability-related health policy”, “special education and school-to-work transitions”, and “state
implementation of federal policy”. Twenty-seven states also enacted legislation to implement the 2014 federally-legislated Achieving a Better Life Experience Act.

Figure 7. Policy Areas related to Disability Employment that States are Currently Focusing on.

However, in this dataset, legislations targeting employers are not specifically identified. This is surprising because research literature suggests that building good rapport with receptive employers is a key feature of a successful program.69 70 71 72 This employer interaction could be through providing training to current

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staff, considering what interventions are reasonable in light of the employer’s needs and limitations, making adjustments to communication exchanges, or through restructuring work tasks and work areas.\textsuperscript{73} \textsuperscript{74} \textsuperscript{75} \textsuperscript{76} The importance of employer commitment also extends to employees with acquired disabilities, where good coordination mediated by a local re-integration expert was shown to be helpful in negotiating work reintegration expectations and responsibilities between employers and the returning employees with disabilities.\textsuperscript{77}

As such, content analysis was done on state legislations mentioning disability for states with historically high employment rates as compared to states with historically low employment rates. Using the Structural Topic Model, an automated content analysis method, topics were inferred based on the distribution of words in the legislative documents.\textsuperscript{78} Figure 8 shows the results, where states with high disability employment rates had a higher prevalence of disability-related legislations concerning employers as compared to states with low disability employment rates. While 5 of the 7 topics are specifically about state governments as an employer, governments are often called to implement best practices first to allay private sector fears about the risks of employing

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{73} Ibid.
\item \textsuperscript{74} Hendricks, “Employment and Adults with Autism Spectrum Disorders”, 125-134.
\item \textsuperscript{75} Keel et al., “TEACCH-Supported Employment Program”, 3-9.
\item \textsuperscript{76} Lee and Carter, “Transition-Age Students with High-Functioning Autism Spectrum Disorders”, 988-1000.
\item \textsuperscript{77} K. Maiwald, A. Meershoek, A. de Rijk, and F. Nijhuis, “How Policy on Employee Involvement in Work Reintegration can Yield its Opposite: Employee Experiences in a Canadian setting”, \textit{Disability & Rehabilitation}, 35, no. 7 (2013): 527–537.
\end{itemize}
\end{footnotesize}
people with disabilities. Therefore, states’ legislations could be said to indirectly promote a culture of inclusion among employers.

Additional state-level data further supports the relationship between a focus on employers and better disability employment outcomes. Figure 9 shows that in 2015, states with high employment rate spent a greater proportion of their vocational rehabilitation funds on activities involving employers such as job search assistance, on-the-job supports and supported employment as compared to states with low disability employment rates. It is therefore encouraging that under the 2014 Workforce Innovation and Opportunity Act, all states are to report

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on their overall effectiveness in serving employers as one of the six primary indicators of performance.  

**Differences in Vocational Services Provided by the Best and Worst States**

The percentage of funding spent on each vocational service was averaged within the top and bottom 10 states by disability employment rate.

Figure 9. Differences in Service Expenditure Percentages between States.

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82 Rehabilitation Services Administration, “2015 RSA-2 Data”. 
IV. Policy Proposal

This proposal intends to further encourage state vocational rehabilitation programs and their community partners to significantly engage with employers as valued allies in increasing the employment rates of people with disabilities.

To achieve this goal, it is proposed that Congress pass a bill amending the Rehabilitation Act to require states to spend at least 30% of their vocational rehabilitation funding on activities involving employers, and to make the monitoring of employer engagement by state vocational rehabilitation services one of the responsibilities of the State Rehabilitation Councils. In addition, it is also proposed that the current Maintenance of Effort requirement and its associated waivers in the Rehabilitation Act and the VR Program Regulations be amended such that states’ maintenance of effort deficits are calculated using their total non-federal expenditures, or using their non-federal expenditures after assuming 20% of it went into activities involving employers, whichever is lower. Employers in this case would be defined as both public and private employers.

To determine the percentage of resources spent on activities involving employer engagement, the service categories in the current RSA-2 Annual Vocational Rehabilitation Program/Cost Report that are likely to involve engaging employers will be identified, and the sum of the state’s purchased service expenditure in those categories would be divided against their total purchased service expenditures. Based on this data, State Rehabilitation Councils would then work
with their respective Vocational Rehabilitation Programs to maintain or improve the quality and quantity of employer engagement.

The RSA-2 form used to collect annual data on all Vocational Rehabilitation Programs’ has 28 service categories. Of these service categories, the following six have been identified to involve employers to a large extent and will be the basis for estimating employer engagement: Apprenticeship Training, Customized Employment, On-the-job Training, On-the-job Supports – Supported Employment, On-the-job Supports – Time Limited, and Job Placement Assistance. State Rehabilitation Councils would then report on the percentage of funds used to purchase or provide these services over total purchased and provided services expenditures as part of their annual reports. An amendment to the Rehabilitation Act would clarify the State Rehabilitation Councils’ responsibility in reviewing, evaluating and advising the vocational rehabilitation agencies’ performance and effectiveness to specifically include the monitoring of the programs’ performance on employer engagement. This would help to ensure that all parties recognize the Councils’ oversight authority.

If the percentage spent on employer engagement activities falls below 30% for the year, the State Rehabilitation Council and the State Vocational Rehabilitation

84 Ibid.
programs will issue a joint report to the state Governor and the Rehabilitation Services Administration’s Commissioner on the reasons for the current performance, areas for improvement, and strategies to improve. In addition, a calculated projection of state expenditures assuming 20% of the state’s expenditure went to activities involving employers would be used to determine if they have met the Maintenance of Effort requirement. This means that states spending less than 20% of their expenses on these activities would have a greater likelihood of incurring a greater Maintenance of Effort deficit. Under the Maintenance of Effort, states are required to maintain their level of non-federal expenditures from all allowable non-federal resources to be at least equal to non-federal expenditures from two years prior, and if the requirement is deemed unmet, the state’s allotment is reduced in the current fiscal year by the amount of deficit. However, in addition to the current available waivers, if states can provide evidence that their expenditures in other unconsidered areas of work have also involved employers to a reasonable extent, they can include those expenditures as part of the 20% of activities carried out to meet the requirement.

The proposal will target and be implemented by state vocational rehabilitation agencies to allow for ease of monitoring within and across all states. The individual State Rehabilitation Councils will help to monitor and drive the improvement aspects of the policy, with the Rehabilitation Services

87 VR Program Regulations at 34 CFR 361.62, “Maintenance of Effort Requirement”. 
Administration providing overall oversight across all states. Based on the most recently available data from 2015, an estimated 2,800 administrative staff in the Vocational Rehabilitation agencies would likely be involved.\(^{88}\) With State Rehabilitation Councils expected to comprise a minimum of fourteen members, the proposed action will also engage an estimated 700 Council members.\(^{89}\)

For the implementation of Workforce Innovation and Opportunity Act, the effective date of implementation for reporting provisions took effect almost two years after the act was made law to allow for accurate reporting.\(^{90} \)\(^{91}\) As this proposal will also affect reporting processes, states will be expected to implement programmatic changes the first full program year after enactment, with the reporting provisions taking effect the following year.

Since states are expected to redistribute their current resources and State Rehabilitation Council positions are not paid, the cost of the proposal would mainly arise from the additional labor hours needed to rework processes and report on the new summarized indicator. The exact costs of these activities are hard to predict beforehand. However, estimates have been made based on a recent regulatory impact analysis that calculated the cost of regulatory changes


\(^{89}\) Rehabilitation Act of 1973, Sec. 105.


\(^{91}\) Ibid.
to the VR program that would come about as a result of implementing the Workforce Innovation and Opportunity Act.92

While the burden of submission should not exceed 15 minutes per VR program centre for the additional percentage calculation of employer-involved activities, producing a report should the state’s percentage of employer-involved activities fall below 30% is estimated to take an average of 20 hours. The 30% cut-off point was selected based on the average amount of expenditures in the past 5 years across all states, from 2010 to 2015.93 It is therefore estimated that about half of the states might have to write a report in the first few years. Using an average hourly rate of $33.63 based on the Bureau of Labor Statistics State-employed database administrators, and with 80 state rehabilitation units across the country, the estimated annual cost of reporting would be around $27,000. 94

To strategically plan for resources redistribution, as well as to develop and implement improvements to the current processes, it is estimated that each state rehabilitation agency would also need an additional 20 hours of work. At an average hourly rate of $39.78 for government management occupations based on data obtained from the Bureau of Labor Statistics State, and with 80 state rehabilitations units, the estimated annual cost of implementing improvements would be around $27,000. 94


94 Office of Special Education and Rehabilitation Services, “State Vocational Rehabilitation Services Program”, 21095.
rehabilitation units across the country, the estimated annual cost of resource redistribution would be around $64,000. 95

This brings the total annual cost of implementation spread across all states and territories to be around $91,000. Since these employer-engagement efforts would also help to improve the transition chances of students with disabilities, these additional funds could be partially supplemented from the reserved 15% of the state’s federal funds that is meant for pre-employment transition services. This amount of funds would come under the additional authorized service of “[applying] evidence-based findings to improve policy, procedure, practice, and the preparation of personnel”.96

In order to make this policy happen, Congress needs to authorize it through a bill amending the Rehabilitation Act of 1973. There is legal precedent for this, with multiple bills passed to amend this Rehabilitation Act over the years, including a recent refreshment of some of the Act’s guidelines in January 2017.97 98

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95 Office of Special Education and Rehabilitation Services, “State Vocational Rehabilitation Services Program”, 21094.
V. Policy Analysis

Requiring states to spend at least 30% of their vocational rehabilitation funding on activities involving employers translates to devoting a similar percentage of time and manpower resources towards the engagement of employers.99

Research suggests that this increased allocation of manpower resources towards employer engagement would effectively result in a greater amount of engagement with employers, and a greater number of employers being open and interested in hiring people with disabilities. A recent study by McDonnall showed that for employers, a greater amount of communication with Vocational Rehabilitation staff was strongly associated with more hiring, intent to hire in the future, and positive attitudes towards individuals with visual impairments.100 In addition, employers having an ongoing relationship with the Vocational Rehabilitation program were most likely to intend to hire individuals with disabilities in the future.101 A separate qualitative study by Del Valle and colleagues also found that “the employers, the businesses keep coming back” to programs like the Utah Vocational Rehabilitation program that allocated funding for full-time employer relations staff to engage employers.102

99 Rehabilitation Services Administration, “2015 RSA-2 Data”.
101 Ibid.
In addition, the successes experienced other countries implementing initiative with similar aims lends further support to the effectiveness of increasing government focus on employer engagement. In Australia, an employer’s use of the governmental Disability Employment Services was most often due to a Disability Employment Services provider approaching the employer directly, with 50% of the government vocational rehabilitation to employer relationships initiated in this way. This suggests that dedicating more resources to allow government providers to work with employers would encourage more employers to be engaged in disability employment. In Norway, the Norwegian Labour and Welfare Administration devoted manpower and resources into setting up Inclusive Workplace Support Centres in each county to provide timely advice on disability related matters with employers who have entered into a cooperation agreement for a more inclusive working life. The result was a large number of enterprises entering the agreement, such that 60% of the labor force is now working in Inclusive Workplace enterprises. In addition, the Workplace Centres were well received by the employers and seemed to have helped to spark a cultural change where employers can now better engage in productive solutions-seeking dialogue with their employees on health and disability problems.

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105 Ibid.
106 Ibid.
For implementation, using existing reporting structures to estimate employer engagement is efficient but places limitations on its effectiveness. Since there is no need to spend time and resources to define and develop a new measure, train people to measure and record it, and clean up a separate set of data, such secondary analysis of existing data is very time and money-efficient. However, since the percentage of resources spent on activities involving employer engagement are only estimated using existing service categories, the actual amounts of employer engagement are not measured or recorded. This means that it is harder to conclusively attribute any subsequent progress first to increased employer engagement, and then to improved disability employment outcomes. Even if the resultant employment outcomes improves, there will still be ambiguity as to whether these successes were due to the increasing employer engagement, or due to other effect pathways. As an example of an alternative effect pathway, these activities might also be activities that allow individuals with disabilities to perceive their interactions with the Vocational Rehabilitation program as a working alliance that supports their self-determination, which then is associated with higher of levels of motivation and subsequent successful employment outcomes.

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108 Ibid.


In the same way, amending the current Maintenance of Effort requirement and applying the same consequences should a deficit occur is cost efficient in terms of time and manpower resources. This is as compared to developing a new way of measuring the outcome and deciding on a separate mechanism for disincentivising states.\(^{112}\) However, there might be concerns about fairness. Similar to the concerns raised about work experience expenditure requirements in the Workforce Investment and Opportunity Act, some might argue that employer engagement as a strategy to promote the disability employment rate is overly favored.\(^{113}\) This could then be potentially detrimental of other equally or more important evidence-based strategies when states are made to allocate more of their funds towards just the proposed strategy. Although the chosen percentage was pegged to the current average and states are not expected to give up all other impactful strategies in favor of employer engagement, states need to be conscious of where they reallocating their funds from.

The effectiveness of a policy also depends on its ability to encourage compliance.\(^{114}\) The shuffling of expenses proposed in this policy and its reliance on existing structures helps to avoid complaints about these increased employer engagements being an unfunded mandate that states do not have financial

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\(^{112}\) Cheng and Phillips, “Secondary Analysis of Existing Data”.


resources to comply with.\textsuperscript{115} However, while acknowledging and working on areas of improvement through the joint report is the first and preferred method of encouraging compliance, the harsher sanctioning through the withholding of finances is still needed to effectively enforce regulation. The reduction of allotment if Maintenance of Effort requirements are not met would directly affect the state budgets, providing the necessary pressure to improve.\textsuperscript{116} For example, when the Utah State Board of Education faced such a reduction, they were immediately motivated to discuss ways to correct their governance oversight issues such that they “don't ever pay maintenance of effort penalty again”.\textsuperscript{117}

There might also be concerns about how the possible reduction through the Maintenance of Effort requirement might overly and negatively affect the amount of funds available to continue serving clients. The lower threshold percentage of 20\% of funds to be allocated for employer engagement in the calculation of Maintenance of Effort as compared to the legislation-required 30\% is meant to help to avoid an overly drastic decrease in state budgets should they be unable to meet the requirements. The inclusion of the additional waiver that allows states to provide evidence that they meet the 20\% requirement after including other areas of work would also help to reduce the likelihood of states being penalized due to this requirement. At the same time, any funds withheld through the Maintenance of Effort penalty is added to funds that are available for


\textsuperscript{116} B. Guy Peters, \textit{American Public Policy}, 173.

reallotment in the next fiscal year. 118 This would increase the overall pool of funds in the next fiscal year, thus allowing states to recoup some of their funds.

There are other potential ways of financially penalizing states for failing to comply with a proposed policy. Section 361.11 of the Code of Federal Regulations describe a withholding of funds when states fail to comply substantially with an evaluation standard or performance indicator established in the Rehabilitation Act. 119 However, the resolution process is long, and it is unclear how much funds will be withheld. More importantly, it does not accord employers the high level of importance as customers of the program that tagging the disincentive to the Maintenance of Effort requirement would result in. 120 Furthermore, amending the Maintenance of Effort also means that the funds used to engage the employers will also be protected from disproportionate state budget cuts alongside funds for other core services targeting just individuals with disabilities. 121

Finally, involving individual State Rehabilitation Councils in the monitoring and improvement aspects of the policy will result in a trade-off between effectiveness and efficiency. Their involvement is likely to increase strategic effectiveness since the employers in the council can be engaged in shaping and smoothening the implementation choices and process. However, there will also be a potential

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120 Ibid.
121 Ibid.
reduction in efficiency as more discussions need to occur and more coordination between the program and the council is likely to be necessary.\textsuperscript{122}

VI. Political Analysis

There are a number of key stakeholders who would need to be on board for the successful implementation of this policy. They include the vocational rehabilitation programs’ staff, representative members of state rehabilitation councils, governors, and the implicit approval of the general public.

Since there are over 80 state and territory-administered vocational rehabilitation programs and 51 state rehabilitation councils, below are key initiatives and positions from a sample of 8 states and territories. The selected areas are North Dakota, Wyoming, Utah, South Carolina, Rhode Island, the District of Columbia, Texas, and California as the top 3 disability employment states, lowest 3 disability employment states, and top 2 states by number of people with disabilities respectively. Figure 10 shows that they also adequately represent the range of outcomes when the difference between employment rates of people with and without disability is calculated.\textsuperscript{123}

\textsuperscript{122} Rehabilitation Act of 1973, Sec. 105.
\textsuperscript{123} K. Lisa Yang and Hock E. Tan Institute on Employment and Disability, “Disability statistics.”
Among states with high disability employment rates, the state VR programs in both North Dakota and Wyoming have long-standing and well-established business leadership networks affiliated with them. Both North Dakota and Utah’s VR programs also have full time business service specialists to manage a network of employers. Finally, the North Dakota Division of Vocational Rehabilitation is explicit in its employer focus, with its mission taking a

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dual client approach such that both people with disabilities and employers are recognized as clients.\textsuperscript{129}

The District of Columbia VR program has also made much effort to increase employment engagement in recent years. They applied for a Project with Industry grant to strengthen their connections to the private business sector in 2008.\textsuperscript{130} In 2010, the administration also purchased a new case management system to allow staff to better track employment trends in the district and their work with employers.\textsuperscript{131} Since 2010, the team has also started engaging employers to provide work trials to their clients.\textsuperscript{132} Finally, in 2013, the administration reported that it is including “specialized job placement providers” as a funded position in its community rehabilitation program contracts while also establishing an Employer Relations Unit within the Operations Division.\textsuperscript{133} However, it seems that the VR team in the federal territory still has no plans to set up their own employer-led network.\textsuperscript{134}

In Rhode Island, a similar recent increase in employer-facing initiatives was found. The Office of Rehabilitation Services implemented a Workforce

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\item \textsuperscript{129} North Dakota Division of Vocational Rehabilitation, “Welcome”, \textit{nd.gov}, accessed November 14, 2017, \url{https://www.nd.gov/dhs/dvrl/}.
\item \textsuperscript{131} Ibid.
\item \textsuperscript{132} Rehabilitation Services Administration, “2013 Monitoring Report on the District of Columbia”, p.7.
\item \textsuperscript{133} Ibid.
\end{itemize}
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Development Supervisor position in 2014 that has since expanded to become a full unit.\textsuperscript{135} 136 In addition, after a Consent Decree against the state in 2014, there was a shift from segregated day activity service programs to viewing employment as the first choice for their vocational rehabilitation clients.\textsuperscript{137} 138 139 However, the Office of Rehabilitation Service still seems inclined to use the personnel needs identified from the business community to create targeted training programs instead of engaging employers to make their workplace environment more inclusive and accommodating for people with disabilities.\textsuperscript{140}

The South Carolina Commission for the Blind also has an Employment Consultant role in their team since 2001.\textsuperscript{141} However, both the South Carolina general program and program for the Blind continue to focus more on training and treatment centres for clients over engaging with external others such as employers to remove environmental obstacles.\textsuperscript{142} In 2010, it was also found that the general program had been using their “job readiness training” services to have clients produce products for their contracted business partners.\textsuperscript{143} 144 This

\textsuperscript{138} United States of America v. State of Rhode Island, CA14-175 (D.R.I. 2014).
\textsuperscript{139} State of Rhode Island, “WIOA State Plan for the State of Rhode Island”.
\textsuperscript{140} Ibid.
means that they are engaging businesses only as contractors with business deals, and not as potential employers.

In California, the Department of Rehabilitation has held public forums on employer engagement where State Rehabilitation Council members frequently contribute. The department’s most recent strategic plan also included a statewide disability awareness campaign directed in part at employers. In addition, both the Californian and Texas Vocational Rehabilitation team have employment relations coordinators to carry out employer engagement activities such as disability sensitivity training, worksite and job process assessments, and assistance with federal requirements and incentives. However, there are currently three vacant Business, Industry and Labor representative positions in the Texas State Rehabilitation Council, with the final position from this group expiring in October 2017 without a replacement on hand.

The research above suggests that states who have been performing well positively engaged with employers for a longer period of time, while states that

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were doing poorly have a greater incidence of actions that tended to decrease employer engagement. However, even states with mid to low disability employment rates have taken steps to increase positive employer engagement in recent years. The initiatives carried out across the country suggest that staff in the state VR programs have already, to various degrees, understood and supported the importance of employer engagement. Therefore, they are also likely to support the rationale behind this proposed policy.

The State Rehabilitation Councils’ agreement to the implementation of the abovementioned initiatives indicates at least tacit support from diverse groups of stakeholders for the principle of employer engagement. This is because State Rehabilitation Councils are to be composed of individuals with disabilities, representatives from community rehabilitation service providers, representatives from businesses, and representatives from the state workforce development board.\textsuperscript{150} In addition, the councils are supposed to have working relationships with other advisory bodies such as the Workforce Investment Board, Advisory Commission on Special Education and councils for specific disability groups. Therefore, strenuous disagreement to employer engagement activities would likely have been raised and discussed even before this policy is proposed.\textsuperscript{151} A sampled review of council meeting reports in the example states do not indicate any strong objections from these other stakeholders. Finally, research also

\textsuperscript{150} Requirements for a State Rehabilitation Council, 34 C.F.R. § 361.17, https://www.law.cornell.edu/cfr/text/34/361.17.
\textsuperscript{151} Ibid.
suggests that employers want and welcome help in navigating and decreasing the complexities of the disability employment service system.\(^{152}\) \(^{153}\)

However, there could still be implementation-based objections about staff having to do more with already tight funding. This funding issue is particularly acute in states like California that already have to implement an order of selection based on severity of disability because they cannot afford to serve all job seekers with disabilities in the state.\(^{154}\) Even states like Texas that have not needed to implement an order of selection have financial concerns. The Rehabilitation Council of Taxes noted that the Texas Vocational Rehabilitation Service’s budget is already stretched through serving more consumers currently with the same amount of funds, and through the need to reserve 15% of service funds for pre-employment training services to promote the transition of students with disabilities.\(^{155}\) This funding concern is also likely to worsen should President Trump’s proposed 2018 budget cuts to the Workforce Investment and Opportunity Act funding be implemented.\(^{156}\) While the estimated cost of the proposed changes is much lower than that made by the Workforce Innovation and Opportunity Act, the additional time and effort needed could still be a


significant psychological barrier preventing staff from accepting and adopting this change.\textsuperscript{157} Therefore, states should be reminded that they could tap on the federal funds reserved for pre-employment transition services to carry out these employment engagement activities.

Since the State Rehabilitation Councils submit their annual report to both the Rehabilitation Services Administration and to their state Governor, the Governor's understanding of and support for the policy would better promote supervision of the policy's implementation.\textsuperscript{158} Fortunately, it seems governors across the country are already using various other policy approaches to try to encourage employers to hire people with disabilities. The National Conference of State Legislature and the content analysis of state legislatures details how governors across the states have been passing laws that encourage private employers to hire and retain people with disabilities, and laws that help states be model disability employers.\textsuperscript{159} This suggests that governors will likely to be open to the additional pathway for employer engagement described in this proposal.

Finally, the personal political costs and benefits of this proposal should be considered. On the cost side, since the suggested change is administrative, the link between this policy and how it would likely augment current efforts might not be immediately obvious. In the worst case, this lack of understanding could lead

\textsuperscript{157} Office of Special Education and Rehabilitation Services, “State Vocational Rehabilitation Services Program”, 21094-21095.

\textsuperscript{158} Requirements for a State Rehabilitation Council, 34 C.F.R. § 361.17.

to criticisms that the policy is taking resources away from people with disabilities. This is especially if the critic holds a medical model of disability and believes that resources will be better spent in more training of people with disabilities before introducing them into the job market. It is therefore important that attention and resources be used in explaining how this policy is directly linked to increasing the effectiveness of state vocational rehabilitation programs and therefore promoting the employment of people with disabilities. Such explanations could be prominently displayed on the Rehabilitation Services Administration’s website and physical state vocational rehabilitation program areas.

However, it is more likely that the general public would lack interest in this proposed administrative change. This is especially the case now, with many other big issues such as healthcare and budget reform currently capturing the headlines. Therefore, supporting it will not really help politicians gain more approval from large swaths of their constituencies. In addition, the public would also be unlikely to call their representatives in support of the proposal. Instead, the best way to gain congressional support for the policy would be through raising the proposal in the relevant caucuses that supportive congress members are already involved in. For example, congressman Gregg Harper could reach out to the Congressional Bipartisan Disabilities Caucus, Fragile X Caucus, and

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the newly formed Congressional Working Group on Employment and Empowerment for the Intellectual Disability Community.\textsuperscript{163 164 165}

On the benefits side, since there are both Democrat and Republican congress members already supporting disability employment efforts, and since this policy is advances both business and labor interests, achieving bipartisan support in this area is possible.\textsuperscript{166 167 168} Claiming responsibility for the implementation of a bipartisan policy action like this would therefore allow the congressperson to reach out to moderate voters and increase one’s record of accomplishments. \textsuperscript{169}

VII. Recommendation

The abysmally low and stagnant employment rate for people with disabilities has persisted for too long. It is time to translate the well-researched findings about the importance of engaging employers into a policy that encourages states to consciously work with employers. Since this proposed policy seeks to augment currently implemented best practices and ensure that all state vocational rehabilitation programs and their community partners consciously spend a certain

\begin{footnotes}
\item[166] Ibid.
\item[168] Peter Trubowitz and Nicole Mellow, "‘Going Bipartisan’: Politics by Other Means", Political Science Quarterly 120, no. 3 (2005): 433-453.
\item[169] Peter Trubowitz and Nicole Mellow, "Going Bipartisan", 451.
\end{footnotes}
percentage of their resources on employer engagement, it is recommended that this proposal be presented to and approved by Congress.

There are definitely some limitations to the proposal. For example, the accuracy in measuring the impact of employer engagement was compromised for cost efficiency. However, this policy action could be seen as a first step to allow state and local governments to experience the positive impact of greater employer engagement. This could then garner support for detailed indicators of employment engagement in the future. The relatively small cost involved also becomes a positive should further longitudinal measurements and research find that the proposed changes were not effective for the country in general.

Similarly, cost efficiency is a major reason why a proposed disincentive is tied to the current Maintenance of Effort requirements. This cost savings and advantages of promoting a dual customer approach outweigh the discussed disadvantages, in part because the policy can include mechanisms to reduce overly negative impacts. Three such mechanisms have been suggested: the lower than required threshold percentage where Maintenance of Effort penalties will kick in, the inclusion of the additional option for a waiver if states can provide evidence after including other areas of work that involved employers, and the addition of these withheld funds into the common pool for the next fiscal year.
More importantly, there are some major advantages to this proposed policy. Most significantly, the policy seems to be politically feasible. There should to be bipartisan support for such policies, and the cost-consciousness of the proposal should add to the political feasibility, especially in this environment of tight budgets. Furthermore, while states are directed to favor employer-facing services, the policy gives states leeway in choosing which employer-facing services would work best for their program at any time during implementation. Finally, this proposal can be fully implemented without reliance on other future legislations being passed, and is based on a firm foundation of research findings over the decades that such action should promote increased rates of employment among people with disabilities.

In conclusion, the advantages and potential for positive change outweighs the policies limitations. Therefore, it is highly recommended that Congressman Gregg Harper seriously considers championing this proposed policy.
Curriculum Vitae

Clara was born on October 8, 1990 in Singapore and has spent most of her years there. She graduated with a Bachelor of Social Science in Psychology (Second Class, Upper Honours) from the National University of Singapore and also completed the University Scholars Programme, a multidisciplinary academic programme that accepts only 3% of each undergraduate cohort. Before pursuing her Masters in Public Management, Clara worked for three years in SPD, a large nonprofit organization in Singapore serving people with disabilities. One of the key aspects of her work was to improve processes in the organization’s Employment Support Programme. In addition, Clara also had the opportunity to collaborate on the review of academic literature and job coach models in various countries to inform the development of a nation-wide framework for supporting the employment of people with disabilities.