

**LESSONS LEARNED FROM COVID-19:
HIGHLIGHTING INNOVATIONS, MAXIMIZING
INCLUSIVE PRACTICES AND OVERCOMING
BARRIERS TO EMPLOYMENT FOR PEOPLE
WITH DISABILITIES**

HEARING
OF THE
**COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS**
UNITED STATES SENATE
ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

ON

EXAMINING LESSONS LEARNED FROM COVID-19, FOCUSING ON HIGH-
LIGHTING INNOVATIONS, MAXIMIZING INCLUSIVE PRACTICES, AND
OVERCOMING BARRIERS TO EMPLOYMENT FOR PEOPLE WITH DIS-
ABILITIES

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FEBRUARY 8, 2022
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Tuesday, February 8, 2022

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The Committee met, pursuant to notice, at 10:03 a.m., in room 216, Hart Senate Office Building, Hon. Patty Murray, Chairman of the Committee, presiding.

Present: Senators Murray [presiding], Casey, Murphy, Kaine, Hassan, Smith, Rosen, Burr, Braun, Marshall, and Scott.

OPENING STATEMENT OF SENATOR MURRAY

The CHAIR. Good morning. The Senate Health, Education, Labor and Pensions Committee will please come to order.

Today, we are holding a hearing on employment opportunities and challenges for people with disabilities. I will have an opening statement, followed by Senator Burr. We will then introduce our witnesses. After the witnesses give their testimony, senators will each have 5 minutes for a round of questions.

While we were unable to have this hearing fully open to the public or media for in-person attendance, live video is available on our Committee website at help.senate.gov. The live stream will include closed captioning, and we also have ASL interpretation. If you are in need of other accommodations, you can reach out to our Committee or the Office of Congressional Accessibility Services.

We continue to see a high number of new COVID cases. We are having—so we are having this hearing in a larger room where we can be socially distanced, limiting the number of people who are in this room, accommodating both some of our Committee Members and witnesses through video as we have done previously, and taking additional measures, such as wearing masks.

As always, I appreciate the work from the staff of the Sergeant at Arms, the Architect of the Capitol, and our Committee clerk and his staff to make this hearing as safe as possible.

This pandemic has been hard on workers across the Country. They have been worried, they have been sick, they have had to care for loved ones who got sick, or find childcare after their school closed. They have lost wages, jobs, and opportunities. And while we

have recently made great progress in our economic recovery with unemployment now down to 4 percent, we are far from done. Workers are still struggling to get the training, education, and support they need to find good paying jobs.

For workers with disabilities, these challenges have been even greater. Some people with disabilities are at even higher risk of severe COVID and are overrepresented in essential jobs that put them at higher risk of exposure. And in the aftermath of this pandemic, workers with disabilities are not just grappling with lost wages, job loss, and long-term unemployment. They are still facing long-standing barriers to joining the workforce, participating in their communities, and obtaining economic self-sufficiency; barriers like ableism, damaging low and false expectations about what they can accomplish, and discrimination in the hiring process.

In 2020, disability discrimination was the basis for more than one-third of all charges filed with the Equal Employment Opportunity Commission. Barriers like inaccessible workplaces, whether that is the result of a lack of physical accessibility or challenges accessing digital information and assistive technology, and barriers like unacceptable pay discrimination.

People with disabilities are paid 87 cents on the dollar compared to workers without disabilities, and that is not even accounting for workers who are paid subminimum wages. These barriers add up to a devastating effect. The poverty rate for people with disabilities is a whopping 26 percent. That is unacceptable.

The challenges that make it hard for people with disabilities to participate in the workforce are not just a problem for them; they are bad for working families, bad for our communities, and even bad for businesses.

At the same time, our economy is growing, and demand for workers is high. There are millions of working-age people in our Country who have a disability and want to participate in our economy, be financially independent, and get a good job, but almost half of them report facing a barrier to employment.

By embracing inclusive practices and improving accessibility, businesses can increase their talent pool by more than 10 million people. What is more, employing people with disabilities has been shown to reduce turnover and increase productivity.

What is promising is that during this pandemic, we have seen a widespread use of inclusive practices that can make work more accessible. And recently, there has been a steady rise in the employment rate for people with disabilities. Great news. So, we need to act on the lessons of this pandemic if we want to ensure that recent progress is a foundation for lasting change.

This pandemic has shown how innovative practices can boost accessibility in our workforce programs and in businesses across the Country. Flexible scheduling has helped workers with disabilities and chronic illnesses adjust their work hours in order to take care of their needs. Remote options have helped address challenges with accessibility, helped workers who might struggle to commute, and made technology like closed captioning for video meetings more common.

Accommodations like flexible scheduling, alternate work arrangements, and telework are some of the most requested. And according

to a recent survey of employers, most accommodations cost nothing to provide.

This is progress we should be building on, and where we have a history of bipartisanship. My friend, the late Senator Johnny Isakson, cared deeply about these issues. I was proud to work with him on this Committee to support people with disabilities through legislation like the Workforce Innovation and Opportunity Act, and the spirit of bipartisanship he brought to those issues remains.

I know that Senator Hassan, Senator Casey, Senator Cassidy, Senator Collins, and many others remain committed to this work, as is shown by this Committee's bipartisan vote last year to advance legislation reauthorizing the Assistive Technology Act, which will help increase access to wheelchair ramps, screen readers, hearing aids, and other assistive technologies that help people live fully in their communities, and access, obtain, and maintain employment.

I continue to work with my colleagues to get this legislation passed into law, and I hope we can work in a similar bipartisan way on challenges like ending wage discrimination and workplace segregation for workers with disabilities; and providing them with the training and support they need to succeed in competitive, integrated employment.

Ernesto, he is a worker with a disability from my home State of Washington, shared with me last year how this kind of support made such a difference in his life. In August, he enrolled in the Basic Food Employment & Training Program. And with the new skills he gained through that program, he quickly managed to get not just one job offer, but two. And Ernesto's experience is just one example of how these programs help people with disabilities get competitive, integrated job opportunities, gain financial independence, and participate more fully in our communities.

There are many more people in Washington State and across the Country who care about this. Right now, one in four Americans have a disability, and more and more workers are identifying as having a disability due to long COVID. It should be obvious that we cannot build back stronger and fairer and more accessible if we leave over a quarter of our Nation behind. We must do everything we can to include everyone we can in our Country's future instead of returning to a normal that did not work for so many people in the first place.

I look forward to hearing from all of our witnesses today about how we do that. And with that, let me turn it over to Senator Burr for his opening remarks.

OPENING STATEMENT OF SENATOR BURR

Senator BURR. Well, thank you, Madam Chairman, and thank you for working with me to schedule this hearing. I think the good news today is that the Omicron surge is declining as quickly as it went up, and I think that is good for everybody in this Country.

Today, we are here to discuss employment for people with disabilities. This is always an important topic because—especially so during the uncertain times that we face due to the pandemic.

I do not know about you, but I am happy to be at work today. Having a job is about more than a paycheck. Having a job is about

participating in society, maintaining independence, and building a sense of purpose. Today, there are 10.9 million job openings in America. Our total unemployment rate is 4 percent.

But, for workers with disabilities, the numbers look very different. Unemployment rates for people with disabilities have been historically high. Despite improvements last year, the unemployment rate for people with disabilities is nearly double that of the rest of the population.

Further, according to the Bureau of Labor Statistics, across all age groups, people with disabilities are less likely to be employed than people with no disability.

These numbers are troubling. As we focus on getting back to work, we have to help employers and individuals understand that our communities are better off when we include individuals with disabilities in the workforce.

We also have to think about what it means to be working in a pandemic. COVID changed the way we work and transformed the economy. Virtual meetings have become somewhat of the norm, and access to technology is more important than ever. Looking around at all the devices in this room is a great example of the importance of technology. We can have everyone at this hearing today because of technology. These devices have also helped companies transition to remote work where many employees perform their job from home.

The ability to work remotely is one example of an accommodation that may make a workplace more inclusive. While remote work is a great option for some companies and employees, we know it does not work for everyone. The ability to work on the job remains a crucial piece of the equation. Employers are looking everywhere for people to hire. There are Help Wanted signs in storefronts across the Country. I frequently hear from businesses in North Carolina about the need for skilled workers. These businesses also share with me the innovative ways that they are recruiting new talent. Employers are tapping into talent pools that they did not even look at in the past.

What can we do to continue this positive trend? To start, Congress needs to make it—does not need to make it harder for people to find jobs or for businesses to grow. Our job should be to support pathways to employment, not eliminate options. By encouraging these pathways to employment, we can open up a world of opportunities.

We need to work with individuals and employers to learn more about the solutions that make the most sense. I strongly believe in empowering individuals to make decisions about their education, job training, when and how they want to work.

We have to be mindful that not everyone will agree with us what any one of us would individually choose to do for work. So, we need to build in a culture of respect that allows individuals to make decisions that best meet their own individual needs; what empowers them to make good decisions; what satisfies their personal perspective of meaningful and rewarding work.

The Federal Government can also lead by example. In the previous administration, the Office of Federal Contract Compliance Programs established voluntary goals for contractors to hire indi-

viduals with disabilities. These goals have been a great success in signifying a partnership between private sector contractors and the Federal Government. While this is one example, every individual and every job is different. There is not going to be a one-size-fits-all answer to the question we have today.

The senators at this hearing have demonstrated the ability to come together to solve difficult problems. Senator Casey and I worked together on the ABLE Act in 2014 to better support individuals with disabilities to plan for their future with tax-free savings accounts. As part of that process, we took the opportunity to meet with every group on every side of the issue to find agreement.

I think that is how we should handle today's topic, and I look forward to speaking with today's panel to see what commonsense solutions we can find together.

Madam Chairman, thank you again for this hearing. Thank you to our witnesses for testifying. Your insight will be invaluable as we consider ways to better support employment opportunities for people with disabilities. I look forward to your testimony today.

I thank the Chair.

The CHAIR. Thank you, Senator Burr.

We will now hear from today's witnesses. Again, I thank all of you for joining with us today.

We will hear from Dr. Lisa Schur. She is a Professor and former Chair of the Department of Labor Studies and Employment Relations at Rutgers University. She is also a Co-Director of the Rutgers' Program for Disability Research, and Co-PI of the Employer Disability Practices Center funded by the National Institute on Disability, Independent Living and Rehabilitation Research. Her research focuses on the economic, political, and social inclusion of people with disabilities, particularly their employment experiences and outcomes.

Thank you for joining us today, Dr. Schur. I look forward to your testimony.

Next, we will have Jenny Lay-Flurrie from Redmond, Washington. Ms. Lay-Flurrie is the Chief Accessibility Officer for Microsoft. The team she leads works on technology that tackles challenges, like improving how organizations hire and support people with disabilities.

Ms. Lay-Flurrie also founded the Disability Employee Resource Group at Microsoft, and created the Disability Answer Desk, which provides specialist customer support to people with disabilities, hosts the annual Microsoft Abilities Summit, and has been instrumental in projects, such as the Autism Hiring Program, Soundscape, and the Microsoft Ability Hackathon.

Outside of her work at Microsoft, Ms. Lay-Flurrie is on the board of Disability: IN, Gallaudet University and Team Gleason.

Ms. Lay-Flurrie, thank you for joining us today. I am always excited to welcome someone here who flew all the way across the Country from Washington State.

Today, we are also joined by Frankie Kineavy, a dedicated disability advocate from Sea Girt, New Jersey. He graduated from Villanova University in 2014 and is a motivational presenter and prominent advocate for disability inclusion. He is also founder of

Let's Be Frank, a head hunter agency that matches workers with disabilities with careers in the sports industry.

Mr. Kineavy, thank you so much for joining us today. I really appreciate your work to speak out on such an important issue, and I look forward to your testimony today.

And our final witness today is Brian Dennis from Des Moines, Iowa. Mr. Dennis is the Workforce Program Coordinator of Disability Services at Iowa Workforce Development. He has over two decades of experience in disability and human resources, working both at the local and State level, serving individuals who face significant barriers to employment. Mr. Dennis is a member of the Board of the Brain Injury Alliance of Iowa, Iowa APSE, and the Central Iowa Center for Independent Living.

Mr. Dennis has a Bachelor's Degree in Psychology, a Master's Degree in Counseling, as well as his Clinical Rehabilitation Counselor certification. And, he is also a Certified Supplemental Security Income and Social Security Disability Insurance benefits planner.

Mr. Dennis, thank you for joining us today. I look forward to hearing from you, as well.

With that, we will begin with our testimony. Dr. Schur, if you can begin, we will go from there. Thank you again for joining us.

**STATEMENT OF LISA SCHUR, PROFESSOR, LABOR STUDIES
AND EMPLOYMENT RELATIONS AT RUTGERS UNIVERSITY,
DIRECTOR, PROGRAM FOR DISABILITY RESEARCH, NEW
BRUNSWICK, NJ**

Dr. SCHUR. Thank you, Senator Murray and Senator Burr, for inviting me to speak with the Committee. I am very pleased to be here.

Currently, as Senator Murray said, I am the co-PI of two 5-year centers focused on disability and employment. Both are funded by the National Institute on Disability, Independent Living and Rehabilitation Research. One center focuses on employer policies, and the other on public policies.

Let me provide a quick overview of the employment situation facing people with disabilities. First, the bad news. Employment remains very low among people with disabilities. The new employment report issued last Friday shows that among working-age people with disabilities, 35 percent of men and 33 percent of women were employed in January 2022, compared to 76 percent and 66 percent of men and women without disabilities.

If you look back over the past 12 years, employment of people with disabilities declined from 2009 to 2014, probably due to the effects of the great recession. However, from 2014 to 2019, employment actually grew faster among people with disabilities than among people without disabilities. The strong labor market undoubtedly played a role. But, there were also policy changes that we are investigating, and those include health improvements among people with disabilities due to expansion of ACA health insurance, better access to long-term services and supports, State-level Employment First programs, and increased access to Medicaid through Supplemental Security Income.

Then, the pandemic hit all workers hard in 2020, especially women with disabilities, but employment recovered more quickly of both women and men with disabilities. And, unlike people without disabilities, they now have better employment rates than they did just before the pandemic recession. This further suggests that strong labor markets are particularly beneficial for people with disabilities, possibly by increasing the willingness of employers to hire them and make accommodations, including telework, flexible schedules, and other types of flexible arrangements.

Regarding telework specifically, workers with disabilities were more likely to be engaged in telework remotely, yes, before the pandemic, but they were left behind in the rapid expansion of telework during the pandemic because they were less likely to be in the types of jobs that could be done from home.

Despite the devastation of the pandemic, there may be a silver lining. It increases employer acceptance of telework and causes employers to rethink workplace structures and how jobs are done. This may lead to more hiring and accommodations for people with disabilities.

That is a hopeful group, but back to more sobering news. People with disabilities face more difficulties in obtaining jobs. This is due, in part, to employer reluctance to hire them. Field experiments show that employers are less interested in qualified job applicants with disabilities, even when their resumes are identical to those of applicants without disabilities and the disabilities are irrelevant to job performance.

Other employment barriers include low education and training levels, extra costs related to transportation, assistive technology and other work supports, work disincentives from disability income programs, and greater social isolation.

Even people with disabilities who obtain jobs face disparities, such as lower pay and benefits on average, higher risk of layoff, a greater likelihood of being in contingent and precarious jobs, and many also face unwelcoming corporate cultures and inflexible workplace policies that are not responsive to their needs.

Employer and public policies can help increase employment opportunities. We are working [audio malfunction] in the National Organization on Disability and Disability:IN to evaluate employer disability policies and practices. I am sure the next presenter, Jenny Lay-Flurrie, will provide valuable examples for Microsoft.

Some promising employer policies we are investigating include targeted recruitment efforts and inclusive language in jobs ads, inclusion of disability and diversity initiatives, and disability training for managers and employees.

Examples of public policies that deserve attention include most basically encouraging a strong labor market, which seems to especially help workers with disabilities; providing additional home- and community-based services funding for employment support; helping Federal contractors meet the goal of having at least 7 percent of their employees be people with disabilities; ensuring access to training and apprenticeships; helping people with disabilities move into competitive, integrated employment while phasing out Section 14(c) subminimum wage certificates; support for financial counseling; and other initiatives.

Again, thank you for the invitation to speak, and I look forward to your questions.

[The prepared statement of Dr. Schur follows:]

PREPARED STATEMENT OF LISA SCHUR

Thank you, Senator Murray and Senator Burr, for inviting me to speak before this Committee. I am pleased to talk to all of the Senators on this Committee, and to share what I know about disability and employment. I have researched, written, and taught about disability and employment issues for over 20 years.

Currently I am Co-PI of the Employer Disability Practices Center (EDPC) at Rutgers University, which is funded by a 5-year grant from the National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) of the U.S. Department of Health and Human Services. In this center we work with colleagues at Syracuse's Burton Blatt Institute, Indiana, and Harvard Universities, and companies that are members of the National Organization on Disability (NOD) and Disability:IN, to conduct and disseminate rigorous research on employer policies and practices that facilitate employment for people with disabilities. I am also a Co-PI of the Disability Inclusive Employment Policy (DIEP) Center funded by a 5-year grant from NIDILRR and based at Syracuse University's Burton Blatt Institute with partners at Harvard and Rutgers. This center is focused on how public policies affect employment opportunities for people with disabilities.

I was asked to provide an overview of the barriers and challenges to employment faced by people with disabilities, as well as the challenges going forward in the wake of the pandemic, and what policies and practices may hold promise for increasing employment opportunities for people with disabilities. I have structured my testimony by providing summary comments in bold followed by a brief explanation and reference to research findings.

1. Employment continues to remain very low among working-age people with disabilities compared to those without disabilities.

First the bad news: the employment report released last Friday, February 4, 2022, showed that among people of working age (16–64), 34.9 percent of men with disabilities and 32.8 percent of women with disabilities, were employed in January 2022. These levels are less than half the employment rates of men and women without disabilities (75.6 percent and 65.5 percent respectively).¹ The large disability gaps are consistent with results from leading data sources on this topic.

The low employment numbers do not reflect a lack of interest in employment among people with disabilities, since their unemployment rate—representing those actively looking for work or awaiting recall from layoff—was twice that of those without disabilities (11.4 percent and 7.9 percent for men and women with disabilities respectively, compared to 4.5 percent and 4.0 percent among those without disabilities).

Due in large part to lower employment and earnings, working-age people with disabilities are more than twice as likely to live in poverty as those without disabilities (24.4 percent compared to 9.7 percent).² The low employment levels also have important social and psychological effects by limiting social contact, feelings of efficacy, and civic and political engagement (Schur et al. 2013).

2. Employment of people with disabilities declined for several years following the Great Recession of 2008–2010, but there was progress starting in 2014 up to the pandemic, and during the pandemic recovery.

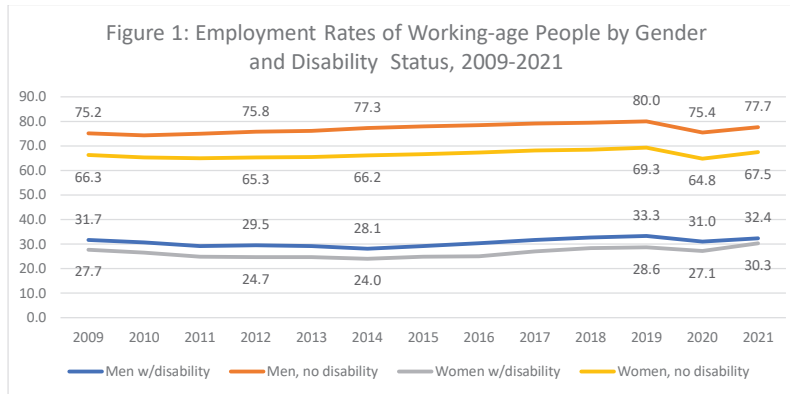
As shown in Figure 1, the employment rate of people with disabilities declined from 2009 to 2014, while the rates for men and women without disabilities remained stable or increased.³ A critical factor in this decline was the 2008–2010 “Great Recession” which led to a substantial increase in Social Security Disability Insurance (SSDI) applications and enrollment through 2012 (Maestas et al. 2021).

¹ Table A-6. Employment status of the civilian population by sex, age, and disability status, not seasonally adjusted—2022 M01 Results (bls.gov), accessed 2-4-22.

² Calculated using microdata from the Census Bureau's 2020 American Community Survey data.

³ The annual averages were generated from Table A-6. Employment status of the civilian population by sex, age, and disability status, not seasonally adjusted (bls.gov) on 2-4-22. The U.S. Bureau of Labor Statistics (BLS) began collecting disability data using consistent measures in June 2008.

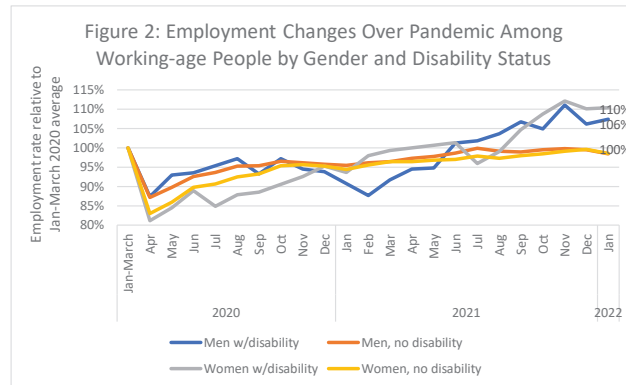
(SSDI is recognized as having disincentive effects for regaining employment for some people with disabilities, as reviewed below).



From 2014 to 2019, however, employment increased faster for both men and women with disabilities than for those without disabilities. This increase is not yet well researched. But the trend likely is due to strong labor demand during this period—well recognized as having especially beneficial effects for members of historically disadvantaged groups (Cherry and Rodgers 2000)—and to policy changes. In our DIEP center, Dr. Nicole Maestas and her team at Harvard are investigating the possible role of several related policy changes:

1. expansion of ACA health insurance creating health improvements among people with disabilities, especially among people with mental health diagnoses;
2. improvements in state policies regarding access to long-term services and supports;
3. “Employment First” programs by state vocational rehabilitation policies; and
4. changes in state-level policies on access to Medicaid through Supplemental Security Income (SSI).

However, the progress was wiped out by the onset of the COVID pandemic in 2020. Looking more closely at monthly employment changes during the pandemic, Figure 2 shows that the employment rate of women with disabilities dropped more than that of women without disabilities, while the drops were equivalent for men with and without disabilities. The initial declines were especially large for Black and Latinx women with disabilities, and Latinx men with disabilities (Schur et al. 2022). By January 2022, however, men and women with disabilities were more likely to be employed than before the pandemic, while those without disabilities were no more likely to be employed than before the pandemic.



While thorough analysis has not yet been completed, the increase in employment among people with disabilities, over the 2014–2019 period and during the pandemic recovery, strongly suggest two complementary interpretations:

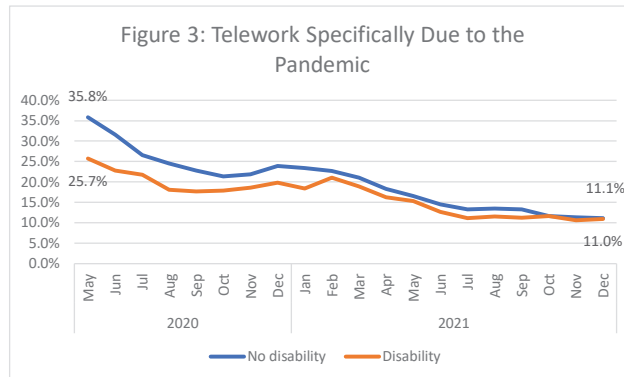
1. Strong labor markets are especially good for people with disabilities, helping overcome employer reluctance to hire them (as reviewed below), and
2. Employers may be increasingly willing to make workplace accommodations for employees with disabilities, including provisions for telework and other more flexible arrangements that can particularly benefit workers with disabilities (Schur et al. 2020).

3. The increase in telework was smaller among workers with disabilities during the pandemic, but the pandemic may have a “silver lining” for people with disabilities over time from increased opportunities for telework and workplace restructuring.

Telework can benefit many workers with disabilities who find it difficult or costly to commute, or who require extra job flexibility. Before the pandemic, workers with disabilities were more likely than those without disabilities to work from home (Schur et al. 2020). This is even though workers with disabilities disproportionately tend to be in blue-collar and service jobs that cannot be done at home—only 34 percent of employees with disabilities were in “teleworkable” occupations before the pandemic, compared to 40 percent of employees without disabilities.

When the full shock of the pandemic hit, workers with disabilities were left behind in the rapid expansion of telework, due to their underrepresentation in teleworkable jobs (Kruse et al. 2022). This is illustrated below in an analysis of Bureau of Labor Statistics (BLS) data on the percent of workers who did work at home due to the pandemic, using questions asked on the monthly employment survey starting in May 2020.⁴ Figure 3 shows pandemic-related telework was initially lower among workers with disabilities. As the pandemic progressed, however, the rates of pandemic-related telework have converged and the disability gap has closed.

⁴ Based on analysis of microdata from the Current Population Survey.



Despite current similar rates of pandemic-related telework between people with and without disabilities, whether an occupation is teleworkable is an important factor in job growth among workers with disabilities. Dr. Maestas finds that the recent employment gains among people with disabilities, shown in Figure 2, were especially strong in occupations that are teleworkable (Ne’eman and Maestas 2022).

The pandemic may ultimately have a “silver lining” for people with disabilities if it causes employers to be more accepting of working from home, and to rethink the structure of workplaces in a way that increases other types of accommodations (Kurtzberg & Ameri, in press). Telework, however, is not a panacea: people with disabilities appear to be paid less when teleworking, and may run the risk of being “out of sight, out of mind” in receiving fair pay, workplace accommodations, and equal opportunities for promotions (Schur et al. 2020).⁵

4. People with disabilities face more difficulties in obtaining jobs.

The challenges faced by people with disabilities in finding jobs include personal, employer, labor market, and social factors. These include:

- Employer discrimination and reluctance to hire: Field experiments based on applications to actual job openings show that employers are significantly less likely to express interest in qualified job applicants with disabilities even when their resumes are identical to those of applicants without disabilities, and the disabilities are irrelevant to job performance (Ameri et al. 2018, Baert 2018; Lippens et al 2021). The reluctance to hire is particularly high among small employers not covered by the ADA (Ameri et al. 2018).

While some employers fear the cost of workplace accommodations in hiring workers with disabilities (Kaye et al. 2011, Bonaccio et al. 2020, Ameri & Kurtzberg 2022), the large majority of accommodations cost little or nothing, and co-workers tend to respond positively when an employee is accommodated (Schartz et al. 2006, Solovieva et al. 2011, Schur et al. 2014). About half of workers who would benefit from accommodations do not receive them (Maestas et al. 2019).

- Low education and training levels: Education is linked to higher employment rates. Only 17.0 percent of people with disabilities age 25–64 had bachelor’s or graduate degrees in 2020, compared to 39.1 percent of people without disabilities.⁶ Lower education does not fully account for their low employment levels, as even college graduates with disabilities have significantly lower employment rates than college graduates without disabilities (57 percent compared to 84 percent). Training levels also appear

⁵ Some types of jobs, however, will never become teleworkable, including many blue-collar and service jobs that are disproportionately held by people with disabilities. This places a limit on the potential of people with disabilities to benefit from telework unless they can obtain the skills, training, and opportunities to move into new occupations.

⁶ Calculated using microdata from the Census Bureau’s 2020 American Community Survey data.

low: only 1.5 percent of people in apprenticeship programs were identified with a disability in 2021 (Goodman et al. 2021).

- Extra costs of work combined with lack of access to assistive technology and long-term services and supports: Many people with disabilities lack access to accessible transportation to get to jobs (Black 2020), and workers may need assistive technologies, home care, job coaches, or other supports to help them engage in productive work.
- Disincentives from disability income programs: Disincentives from the SSDI and Supplemental Security Income (SSI) programs play a role in the low employment of people with disabilities (Bound & Waidmann 2002, Chen & Van der Klaauw 2008). These programs are not, however, a factor for the majority of working-age people with disabilities, as less than one-third reported receiving any SSDI or SSI in 2020. In addition, the employment rate continues to be significantly lower among people with disabilities when focusing only on people who do not receive any SSDI or SSI.⁷ Strong labor markets appear to greatly reduce SSDI applications (Maestas et al. 2021), and help explain increasing exit rates from the SSDI and SSI programs over the 2014–2019 period when disability employment was improving as described above (Maestas 2022).
- Social isolation: People with disabilities are more likely to live alone, and travel and socialize less, which reduces their social networks and connections that can lead to jobs (Kessler Foundation and National Organization on Disability 2010, Schur et al. 2013, Brumbaugh 2018).
- Social stigma: There is a well-documented continuing history of stigma and prejudice against people with disabilities, which may reinforce social isolation (Blanck et al. 2021, Jackson-Best & Edwards 2018, Muzzatti 2008, Scior 2011, Thompson et al 2011, Yuker 1988). As noted above, disability stigma may make employers reluctant to hire people with disabilities, and lead some people with disabilities to be reluctant to pursue jobs and other activities outside the home.

5. While two initial studies blamed the ADA for a decline in employment of people with disabilities, subsequent studies found little or no long-term negative effect, and possible positive effects of state anti-discrimination laws.

Because the ADA requires that employers pay for the reasonable costs of workplace accommodations, initial critiques of the law blamed it for a decline in the employment rate of people with disabilities (Acemoglu & Angrist 2001, Deleire 2000). However, subsequent studies find no decline when other measures and techniques are considered (Kruse & Schur 2003, Beegle & Stock 2003, Houtenville & Burkhauser 2004, Hotchkiss 2003, 2004, Donohue et al. 2011), and demonstrate that any potential ADA-related decrease in employment was temporary (Jolls 2004). Recent studies of state disability anti-discrimination state laws also find either no or positive effects on the employment of people with disabilities (Button 2018, Ameri et al. 2018, Neumark et al. 2017).

6. Employed people with disabilities face disparities, including lower average pay and greater job insecurity.

- Lower pay: Employees with disabilities earn, on average, significantly less per year than those without disabilities after accounting for productive characteristics such as education and job experience (Kruse et al. 2018 Schur et al. 2020). The pay gaps are reduced but continue to exist in occupations where particular disabilities should not impair productivity. Union representation reduces but does not eliminate the disability pay gap (Ameri et al. 2019).
- Fewer benefits: Employees with disabilities are less likely than those without disabilities to receive employer-provided benefits such as pensions and health insurance (Hallock et al. 2021, Schur & Kruse 2021).
- Increased risk of layoff: Employees with disabilities are more likely than those without disabilities to be laid off by employers when times are bad,

⁷ 28 percent of working-age people with disabilities received SSDI or SSI in 2020. The employment rate among those not receiving SSDI or SSI was 48.3 percent among people with disabilities and 75.5 percent among people without disabilities. Calculated using microdata from the Census Bureau's 2020 American Community Survey data.

and report greater job insecurity (Mitra and Kruse 2016, Schur et al. 2009, Schur et al. 2017).

- Greater likelihood of contingent employment: Consistent with their lower job security, workers with disabilities are more likely to be in contingent jobs such as temporary employment, on-call, and contract work (Schur and Kruse 2021, Harpur & Blanck 2020). Such jobs can be a good fit for workers who desire extra flexibility due to medical and other needs, but others may be forced into such jobs due to a lack of access to standard employment. Survey data indicate that workers with disabilities are more likely than those without disabilities to feel constrained to a temporary job, and to want and search for a non-contingent job (Schur and Kruse 2021).
- Unwelcoming corporate cultures: In some companies workers with disabilities must contend with negative attitudes from supervisors and co-workers that limit career growth and the quality of their work life, as well as with structural barriers in workplace policies (Ren et al. 2008, Schur et al. 2005, 2017). The disparities are linked to lower average job satisfaction among workers with disabilities, although they have similar levels of organizational commitment and turnover intention as workers without disabilities (Schur et al. 2017). Inclusive workplace cultures make a difference: In worksites where employees agree the company is fair and responsive to all employees, employees with disabilities have especially high job satisfaction, company loyalty, willingness to work hard, and turnover intention as employees without disabilities (Schur et al. 2009).

7. Employer policies can help increase employment opportunities for people with disabilities.

There are policies and practices employers can pursue to increase the hiring, retention, training, engagement, and career progression of people with disabilities. In our new Employer Disability Practices Center funded by NIDILRR we are collaborating with leading employers in the NOD and Disability:IN networks to evaluate employer best practices using experimental, quasi-experimental, and qualitative methods. Employer policies and practices are critical in ensuring people with disabilities are part of a workplace culture of inclusion (Ball et al. 2005, Schur et al. 2005, Blanck, Hyseni, & Wise 2021, Burke et al. 2013, Dimoff & Kelloway 2019, Hanisch et al. 2016, Kaye et al. 2011, Von Schrader et al. 2014).

Examples of promising employer policies and practices that we are exploring include:

- Strong visible commitment from the top of the organization (Araten-Bergman, 2016);
- Inclusion of disability in DEI (diversity, equity, and inclusion) initiatives, including supplier diversity policies (Ball et al. 2005);
- Targeted recruitment efforts and inclusive language in job ads and company messages, as opposed to language that simply complies with legal requirements;
- Disability training for managers and employees aimed at creating an inclusive climate to encourage self-disclosure, requests for accommodations, and effective responses to accommodation requests; and
- Centralized accommodations funds to reduce financial burdens on company divisions and departments;

8. Public policies also play an essential role in the employment of people with disabilities.

Working with our partners at the Syracuse Burton Blatt Institute and Harvard, our Disability Inclusive Employment Policies Center funded by NIDILRR seeks to add to new research on effective public policies. There is a range of policies that affect employment of people with disabilities, and I will not address them all. I will simply point to a few that deserve attention in the next few years:

- Encourage a strong labor market with low unemployment, which appears to be especially important in the employment progress of people with disabilities both in the 2014–2019 period and in the recent pandemic recovery;

- Ensure that people with disabilities have full access to apprenticeship and other training programs;
- Provide additional Home and Community Based Services (HCBS) funding dedicated for employment support, which can pay for job coaches, personal care attendants and assistive technology that allow an individual with a disability to secure and maintain employment;
- Ensure that entrepreneurs with disabilities have access to resources and training to start and maintain disability-owned business enterprises;
- Work with Federal contractors to ensure they meet their goal under Section 503 of the Rehabilitation Act to have at least 7 percent of their employees be people with disabilities. This should include more education to employers on how to better identify, support and recruit individuals with disabilities; and
- Work to move people with disabilities into competitive integrated employment while phasing out FLSA section 14C subminimum wage certificates.

Thank you for the opportunity to present this testimony.

[SUMMARY STATEMENT OF LISA SCHUR]

Employment continues to remain very low among working-age people with disabilities compared to those without disabilities. The new employment report shows that among working-age people with disabilities, 34.9 percent of men and 32.8 percent of women were employed in January 2022, compared to 75.6 percent and 65.5 percent of men and women without disabilities. Their unemployment numbers are twice those of people without disabilities.

Employment of people with disabilities declined for several years following the Great Recession of 2008–2010, but there was progress starting in 2014 up to the pandemic, and during the pandemic recovery.

The increase in telework was smaller among workers with disabilities during the pandemic, but the pandemic may have a “silver lining” for people with disabilities over time from increased opportunities for telework and workplace restructuring.

People with disabilities face more difficulties in obtaining jobs. The reasons include: employer discrimination and reluctance to hire, low education and training levels, extra costs of work combined with lack of access to assistive technology and long-term services and supports, disincentives from disability income programs, social isolation, and social stigma.

Employed people with disabilities face a variety of disparities. These include: lower pay, fewer benefits, increased risk of layoff, greater likelihood of contingent employment, and unwelcoming corporate cultures.

Employer and public policies can help increase employment opportunities for people with disabilities.

Examples of promising employer policies and practices include: 1) strong visible commitment from top management, 2) inclusion of disability in diversity initiatives, 3) targeted recruitment efforts and inclusive language in job ads and company messages, 4) disability training for managers and employees aimed at creating an inclusive climate, and 5) centralized accommodations funds.

Examples of public policies that deserve attention over the next few years include: 1) encouraging a strong labor market, 2) ensuring people with disabilities have access to apprenticeship and other training programs, 3) providing additional Home and Community Based Services (HCBS) funding dedicated for employment support, 4) providing resources and support to entrepreneurs with disabilities, 5) working with Federal contractors to ensure they are meeting the goal of having at least 7 percent of their employees be people with disabilities, and 6) working to move people with disabilities into competitive integrated employment while phasing out FLSA section 14C subminimum wage certificates.

The CHAIR. Thank you, Dr. Schur.
We will turn to Ms. Lay-Flurrie.

STATEMENT OF JENNY LAY-FLURRIE, CHIEF ACCESSIBILITY OFFICER, MICROSOFT, REDMOND, WA

Ms. LAY-FLURRIE. Chair Murray, Ranking Member Burr, and Members of the Committee, thank you for the opportunity to testify today.

I am Jenny Lay-Flurrie, the Chief Accessibility Officer. I have been at Microsoft for 17 years, last 6 in this role, and 25 years in the tech industry. I am a technologist's mom, wife, and a very proud deaf, disabled female leader. My role is to drive the future of accessibility to empower every person and organization to achieve more, building a culture of disability inclusion and accessibility into the fabric, hearts, minds of 160,000 Microsoft employees. That ecosystem then helps to deliver inclusive, accessible products to Americans with disabilities.

COVID-19 has shown new light. It has shown new light on the importance of technologies. Everyday devices became the vehicle for work life and play, remote work opening doors to work opportunities for disabled and immunocompromised.

Accessibility: It is the equalizer, vital to empower people with disabilities to work, call their families, and support their kids. Personally, as a deaf individual, I switched overnight from being 6 feet from my ASL interpreter to being on a screen. I am grateful to be in a company where that was possible.

Put simply, digital accessibility has never been more important than it is today. That is why Microsoft announced last year a new ambition to help bridge the disability divide, raise the bar with technology, and open doors to talent.

How do we do it? Well, when Microsoft designs new products—with people with disabilities, based on their feedback. It is now easier to do some really important things. You can easily find and use accessibility in Windows and Xbox. You can create accessible documents using a spell check-like feature that we call Accessibility Check. We have expanded automated captions. We have added functionality for the deaf, like CART. Throughout all of this, a clear focus on mental health. Simple tools to nudge taking breaks, reduce social anxiety. The hand raise is one example.

There is way more to do, but let's get clear. People with disabilities make our products better. Having empowered disability-diverse workforce is essential to deliver inclusive and accessible product, yet this is the biggest untapped talent pool in America, and that is why we have made it a clear focus to hire more disabled talent.

I will give you a couple of quick examples. Our Neurodiversity Hiring: What started as a pilot in 2015 now hires talent across the spectrum of neurodiversity in a week-long virtual hiring academy, using mind-crafted, showcased teamwork and collaboration skills, and we now work with 42 other companies to accelerate neurodiverse talent hiring where the unemployment/underemployment is around 85 percent.

We also believe that disability is, and it is, a core part of our culture. We talk about disability accommodations. We purposefully describe it, as I have today, as a talent pool. Our growing internal disability community spans the spectrum, and every employee

takes training on accessibility. That ability summit that you mentioned earlier, we had 12,000 attendees last year.

All this and more has grown our known representation to 7.1 percent of Microsoft U.S. employees identifying with a disability, and we are proud to have that in our annual diversity report.

I want to wallow in two key points. First, accessibility is foundational, essential in going through a very rapid innovation curve. If we really want to take advantage and we want to include people with disabilities in the workforce, technology must be accessible from the start, and take advantage of the innovation.

Policy needs to modernize and recognize, support, and promote easy access to accessible technology. America needs to get educated on the wealth of digital accessibility in front of you in those devices you have. Accessibility is everyone's responsibility.

Second, let's open some doors to talent. Fix closed or hiring processes and policies limiting opportunity. That includes income limits and subminimum wage. We believe in fair wages for all, and our Supported Employment Program has hired over 400 intellectually, developmentally disabled individuals for jobs on Microsoft campus, and in competitive wage and benefits from their employers.

We also believe that disability representation should be more visible. Too few companies publically disclose their metrics today.

To close, disability is a strength. I am proud to be counted as a disabled female leader in one of America's best companies, and I am really humbled to be here today representing the work of many back at Microsoft. But, there is more to do. We need to take conscious, methodical steps to drive a more accessible digital America and open doors to talent. We can make a difference together.

Thank you so much for having me here today.

[The prepared statement of Ms. Lay-Flurrie follows:]

PREPARED STATEMENT OF JENNY LAY-FLURRIE

Chair Murray, Ranking Member Burr, and distinguished Members of the Committee, it is an honor to appear before you today to share Microsoft's perspective on closing the disability divide in employment. My name is Jenny Lay-Flurrie, and I am Microsoft's Chief Accessibility Officer. I've been based for the last 15 years in our Redmond, Washington, headquarters, where I founded and chaired our Disability Employee Resource Group for over 10 years. I'm proud of how Microsoft has empowered me as a deaf disabled female leader. In addition, I serve on the board of Disability:IN, Gallaudet University, and Team Gleason.

At Microsoft, we believe that disability is a strength, and by leaning into the principles of inclusive design and the lived experience of the disabled, we have created an ecosystem of accessibility to help tackle the Disability Divide,¹ including persistent disparities in employment. This starts with hiring and supporting people with disabilities, goes to embedding their insights and expertise into product, website and building development, through to creation of innovative technology that aims to revolutionize what is possible for people with disabilities. This foundation has helped us to respond to the impact of COVID-19, which accelerated the need for accessible technology and disability inclusive practices.

Microsoft has learned a tremendous amount during our decades-long journey regarding accessibility and disability inclusion—learning that has accelerated over the last 2 years as a direct and indirect result of the pandemic. This work has been informed by the insight and feedback of the disability community, advocates, and non-profit partners. And we know that we still have far to go. We believe the issues related to disability inclusion and the importance of accessibility technology have never been more pressing than they are today. People with disabilities make up one of the world's largest untapped talent pools, but we all need to act with bolder ambi-

¹ <https://openknowledge.worldbank.org/bitstream/handle/10986/23347/9781464806711.pdf>

tion to empower disabled talent to achieve more. Based upon our experience, we believe any disability employment discussion must include three key areas for action:

1. Reframing disability as a strength. Too many private and public sector employers rely on dated understandings of disability and what is possible for individuals to achieve.
2. Driving technology awareness and adoption. Innovation in accessibility is enabling daily advances in empowering technologies—a rate of innovation that has accelerated as a direct impact of the COVID–19 pandemic.
3. Accelerating adoption of best practices. This stems, first and foremost, from always including disability in diversity, and can be realized when we all work actively to address barriers that exist for individuals with disabilities who want to enter the workforce.

Current State—employment gaps persist

The urgency and import of today’s hearing are clear: our economy is experiencing record demand for workers, yet individuals with disabilities still have lower employment and higher rates of poverty than those without disabilities. Moreover, having a disability is something that any of us may experience, since disability can be permanent, situational or temporary. There remain persistent and enduring gaps in employment for individuals with disabilities:

- The unemployment rate for individuals with disabilities remains double that for people without disabilities (10.6 percent versus 4.9 percent in the third quarter of 2021), and these rates are even higher for individuals with disabilities of Black, Hispanic or Asian descent.² These gaps have not changed substantially since the establishment of the Americans with Disabilities Act (ADA) in 1990.
- This gap spans education differences: the employment rate for college graduates with disabilities is just 50.6 percent, compared to the general employment rate for college graduates at 89.9 percent.³
- The COVID pandemic exacerbated this gap, with nearly 1 million people with disabilities—about one in five—losing their jobs.
- During the pandemic we have also seen the emergence or increase of certain disabilities, such as long-term health issues related to COVID, and mental health conditions, such as depression and anxiety.⁴

Engaging one of the world’s largest untapped talent pools can help to address our current labor market needs and is good value for businesses. A 2018 study done in partnership by Accenture, Disability:IN, and the American Association of People with Disabilities, found that the 45 companies identified as standing out for their leadership in areas specific to disability employment and inclusion had, on average, 28 percent higher revenue, double the net income, and 30 percent higher economic profit margins than their peers over the 4-year period.⁵

This is a pivotal moment for this Committee to consider how technology, business practices, and policy can work together to advance employment for individuals with disabilities.

Accessible Technology—Opening doors for people with disabilities

Accessible technology is a fundamental building block that can open doors to bigger opportunities for people with disabilities, tackling barriers to communication, interaction, and information. At Microsoft we start by working to ensure our own products are accessible by design to empower everyone across the spectrum of disability, with many features now built into the devices and software widely available today. This shift—expanding the idea of accessibility technology from being primarily supplemental products created to address and bridge accessibility needs, to encompass integrated features—is foundational to scaling access to the wider world of work. We do this by infusing the insights and feedback from our disabled employees, accessibility experts, customers and the disability community to build fea-

² America’s Recovery: Labor Market Characteristics of People with a Disability, Oct. 2021 (bls.gov).

³ Persons with a Disability: Labor Force Characteristics—2020, Feb. 2021 (bls.gov).

⁴ Short-term and Long-term Rates of Postacute Sequelae of SARS-CoV–2 Infection: A Systematic Review—Infectious Diseases—JAMA Network Open—JAMA Network; 2021 State of Mental Health in America—Mental Health America (mhanational.org).

⁵ Getting to Equal: The Disability Inclusion Advantage, 2018.

tures like Immersive Reader for people who are dyslexic, SeeingAI app for the blind, and the Xbox Adaptive Controller, which empowers gamers with disabilities.

Accessible technology has grown rapidly over the course of the last decade but never more so than in the last 2 years. COVID-19 and the resulting virtualization of work drove accelerated demand for digital technology to communicate, interact, get information, work, and play. We saw an immediate spike in demand, support questions, and usage of accessibility features. As an example, Microsoft Teams Live Captions unique users skyrocketed, with a 3600 percent increase during the pandemic; Teams captions has expanded into 28 languages and dialects. Nearly 2 years in, such trends continue and have driven us to prioritize and accelerate innovation in a few key areas:

- **Content Accessibility.** Americans increasingly need to rely upon electronically generated and transmitted documents at work, home, and especially in the classroom. Making these documents more accessible enables businesses to reach more customers and individuals with disabilities to participate fully in the vital free flow of information. Tools like Microsoft's Accessibility Checker help deliver a new bar of inclusion, making it easy to create documents that are accessible to all those who develop, contribute to, and receive them. In Microsoft Word, Excel, PowerPoint, OneNote, Outlook, and Visio, the checker analyses content, providing guidance on how to make the document accessible. This includes suggested image descriptions for pictures, a feature crucial to blind and low vision users. Since April 2021, we've seen usage of the Accessibility Checker increase by 582 percent. Now anyone can create and share accessible emails, documents and content using quick and easy tools readily available from the toolbar.
- **Making accessibility easy to find and use.** Great accessibility features are not effective if people can't find them. The input of people with disabilities is critical to making technology accessible to all. As an example, last year Microsoft launched Windows 11. The team started community engagement on day one of the design process. This led to a series of innovations, from new calming sounds and high contrast settings to natural voices for screen reader users and voice access for mobility users. But the most impactful change was likely the simplest. Based on feedback from the community we reconfigured our settings so anyone seeking accessibility on any of our devices, PCs or Gaming can search for "accessibility" and be connected directly to features they need. Accessibility must be easy to find and use.
- **Accessibility in remote meeting tools.** Remote collaboration and meeting tools have become essential to work, life, and play. The pandemic elevated the need for more accessibility features and innovation as users across the disability spectrum moved to virtual environments. Accessibility innovations in Microsoft Teams collaboration and meeting software included specific features for the deaf, expanding AI-provided live captions, adding functionality for CART (Communication Access Real Time Translation), in addition to blur backgrounds, automatic transcription, and the ability to "pin" a specific video to make it easier to view American Sign Language (ASL) interpreter(s). This also includes features such as hand raise, which was imagined by one of our neurodiverse engineers, to promote more inclusive conversations. This ongoing work is an important component of powering the future of work with virtualization and flexibility.
- **Expanded legibility options.** Technology can also enhance access to text understanding for those whose learning, visual, or other disabilities such as dyslexia create barriers to traditional literacy. For example, Microsoft Word can detect and convert text to heading styles crucial for blind and low-vision readers. Navigation panes designed for screen readers can help people easily discover and navigate objects in a spreadsheet in Excel. And tools like Microsoft's Immersive Reader, which is used by 35 million people every month, can increase comprehension through customizable features including reading screen text aloud, segmenting words, or displaying a few lines of text at a time to help with comprehension.
- **Testing tools.** Innovative development tools can help move the needle on accessibility. For example, Accessibility Insights is a free open-source technology that helps developers test code to find and solve accessibility issues in websites and apps before they reach end users. This enables de-

velopers to design for greater access of employees and customers at the front end, when addressing accessibility is simpler and more cost effective.

- Driving awareness of accessibility and disability practices. There is always a learning curve with new technologies, and accessibility features are no exception. Training and awareness of disability etiquette through accessibility features is an important part of driving a more inclusive culture. All Microsoft employees around the world are required to take a new Accessibility 101 course, which includes details of how they can be more inclusive in day-to-day work life. We share that training externally, and the UK Government Dept of Work and Pensions is using Microsoft Accessibility Fundamentals to grow skills in their employee base.
- Providing support when and how people need it. For the last 8 years, Microsoft has provided support to customers with disabilities, organizations, businesses, and schools through Disability Answer Desk, a dedicated support team for the disabled, answering questions on the latest accessibility features and the use of Assistive Technology in key Microsoft products via phone, chat, ASL support and Be My Eyes (a free app that connects blind and low-vision people with sighted volunteers and company representatives for visual assistance through a live video call). The volume of support calls doubled through the pandemic, and overall, our Disability Answer Desk has received 1 million+ contacts over the past 8 years. It is valued by the community, and by us, as a way to help people when, where, and how they need it. Building off this model, Microsoft has shared the Disability Answer Desk Playbook to guide customers on how to develop an inclusive support team for their customers with disabilities.
- Affordability. For many, assistive technology is out of reach due to cost or lack of connectivity. That's why accessibility is embedded into the core of our products like Windows 11, Office, and Xbox. However, there is more to do. Microsoft is addressing this in two ways. First, we have created a new Low-Cost Assistive Technology Fund, as part of the AI for Accessibility program, to spark innovation aimed at driving down the cost of assistive digital technology and increasing access to it. Second, in the United States, we are starting focused efforts in our partnerships with internet providers, city governments and community organizations to offer affordable broadband, hardware, software, and digital skills resources to specifically reach people with disabilities. We are beginning that work in Los Angeles and New York.

There is still much to do to increase the development and use of these and other technology tools that can smoothly integrate technology tools into the daily tasks of work. From our own experience we believe the following are key to an inclusive approach for private and public industry:

- Listen to people with disabilities. Communication channels should actively encourage people to participate. All the features above were suggested by employees and/or customers with disabilities to improve products and raise the bar for inclusion.
- Invest in training. Widespread information and training are critical to ensuring everyone understands accessible technology features and uses them. It is important to invest time to learn about new features that may benefit individuals, and will grow inclusion broadly, especially for people with disabilities, bearing in mind that roughly 70 percent of disability is non-apparent.
- Make use of Artificial Intelligence and Machine Learning. AI has the potential to take computing applications to new heights of accessibility. Used and developed responsibly, they can enable critical tools such as Live Captioning.
- Understand that accessibility isn't just about people with disabilities. Everyone is part of creating inclusive and accessible materials. Content creators, website developers, anyone who writes emails, word documents, slides, podcasts, and social content—all of us have both the power and the responsibility to make the world more accessible to all.

With these approaches, the private sector, disability advocates, and policymakers can help drive widespread awareness and adoption of new technologies and shift our collective mindset to understand the importance and relative ease of providing universally accessible tools.

Workforce—Innovative practices that empower talent

Having a diverse workforce that includes people with disabilities is paramount to the Microsoft mission to empower every person and organization on the planet to achieve more. While technology has the power to increase the accessibility of work and all areas of life, we will not move the needle on employment of individuals with disabilities without focused effort. Attracting and retaining a diverse workforce, including individuals with disabilities, means using targeted strategies that acknowledge the strength of people with disabilities and support their needs with centralized global accommodation processes and opportunities for growth in the workplace. Microsoft proactively hires talent with disabilities, with specific hiring programs and strong disability inclusion practices to empower candidates to “come as you are, do what you love.”

From a hiring perspective: Key strategies we have employed at Microsoft and which we have seen other companies with similar dedication adopt include:

- **Neurodiversity Hiring Program.** Since 2015, we have been actively recruiting and inclusively onboarding autistic talent through a dedicated program, and in the last year expanded the program to include all neurodiverse talent, which may include Autism Spectrum Disorders, ADD/ADHD, dyslexia and dyspraxia, and learning disabilities. It uses a multi-day hiring approach which includes mock interviews, collaboration and other skills demonstration exercises, and information sessions with managers and existing employees. Final interviews also include specific accommodations, such as longer breaks. For individuals who are selected through this process, Microsoft incorporates training for managers and teammates, as well as support for the new employee. The program has helped Microsoft to successfully hire individuals into numerous technical roles within our company including Software Engineer, Service Engineer, Build Engineer, Lab Engineer, Data Analyst or Data Scientist. We have also invested in sharing our knowledge, partnering with others in industry and non-profit partner Disability:IN to form the Neurodiversity Work Employer Roundtable, which is made up of 42 companies across the United States that are similarly invested in hiring from this talent pool, collaborating to share best practices.
- **Disability Hiring.** We work accommodation and inclusivity into everyday processes. Microsoft’s Disability Hiring approach includes focused recruitment via a dedicated online portal where candidates are invited to apply. These candidates are connected to dedicated staff who have expertise in assisting candidates with disabilities. We also host events to provide a built-in opportunity for candidates with disabilities to attend a 1-day interview structured to provide an inclusive experience for individuals. This format enables individuals to best demonstrate their skills in interview settings designed for inclusion, which can include extended interview times, longer breaks between interviews and use of assistive communication technologies or interpreter services. Beyond specific programs, inclusion is built into every step of our hiring process by default, such as inclusive hiring training for managers and interviewers.
- **Disability Representation Metrics.** We are proud to be one of just 20 major companies that publishes our U.S. disability representation metrics in our Diversity and Inclusion Report. As of June 2021, 7.1 percent of U.S. employees in our core Microsoft business chose to self-identify as having a disability.⁶ While we are proud of the progress, there is clearly more to do. Our ambition is to fully represent the population of people with disabilities across the globe, and we take that seriously.

Leveraging our broader corporate footprint. Creating a more accessible world means going beyond our own workplace and working with the broad network of Microsoft suppliers to create a culture of accessibility that will ripple throughout the technology industry and across the entire business community. Actions we have taken at Microsoft to ensure that our major suppliers incorporate accessibility into multiple facets of their work at Microsoft include:

- **Procurement:** Since 2015 we have expressly included accessibility as a factor in our procurement processes and provided a Supplier Toolkit to support suppliers. This includes accessibility fundamentals trainings, resources that introduce accessibility concepts for anyone who manages, de-

⁶ Microsoft Diversity & Inclusion Report 2021.

signs, creates, or edits digital assets, and technical training resources on implementing accessibility in product design, development, and testing.

- The Supported Employment Program creates pathways to job opportunities for people with intellectual/developmental disabilities (I/DD) at Microsoft facilities. Microsoft Real Estate and Facilities (RE&F) partners with vendors and employment agencies, creating job opportunities for people with intellectual/developmental disabilities (I/DD) at Microsoft facilities across the globe. Supported Employees have been hired into over 30 different job types and are part of our campus communities as successful, productive workers in jobs that match their interests and abilities. The program published a toolkit to share learnings from the program with other companies as they explore hiring from the I/DD talent pool.
- No subminimum wage: In 2019, Microsoft added language to our Supplier Code of Conduct to reconfirm the obligation to pay the applicable minimum wage to everyone. Microsoft does not support separate wage standards for people with disabilities, and we will not permit subcontractors to pay sub-minimum wages for our work.

Reducing the unemployment rate for people with disabilities is—and must be—a collective effort. Microsoft works closely with organizations like Disability:IN and other non-profit, advocacy and community groups across the US, to share these supply chain best practices and learn from others.

Policy recommendations

In this climate of rapid change, people with disabilities, employers, and Federal and state-funded employment and workforce systems are faced with policies and models that are in many cases even less effective today than 50 years ago. Modernization will require policy change. The scope of policy areas impacting employment is broad and includes policies not only in traditional workforce and education programs, but also programs for veterans and for income support. As a general matter, we recommend policymakers focus on a few key principles:

- Encourage the widespread adoption of accessible technology. As Congress considers reauthorizations of the Assistive Technology Act of 1998, the Workforce Innovation and Opportunity Act of 2014, the Higher Education Act of 2019 and the Individuals with Disabilities Education Improvement Act 2004 and other key legislation, it should focus on the role of technology as a key driver to expanding accessibility.
- Ensure inclusivity and equity, including through fair pay and equal treatment for individuals with disabilities. Microsoft supports the bipartisan Transformation to Competitive Integrated Employment Act, which will ensure states and employers help workers with disabilities transition into fully integrated and competitive jobs while phasing out subminimum wages for workers with disabilities, currently allowed under Section 14(c) of the Fair Labor Standards Act.
- Remove barriers and disincentives to work. Many disabled Americans receive assistance from a web of programs including Workers Compensation, Social Security Disability Income, Supplemental Security Income, Veterans Disability compensation, disability insurance payments, Medicaid, Medicare, and others. Often these programs are crucial to ensure the support needed to maintain independence and health. At the same time, employers and workers can find the need to establish or maintain program eligibility creates work limitations. Policies that enable disabled workers to accept roles, and incentivize increased work opportunities, raises and promotions, while maintaining access to needed supports, are critical to increasing the employment rate.

Conclusion

Technology has the potential to empower and transform employment opportunities for individuals with disabilities. Innovations designed by and with people with disabilities will lead to more inclusive experiences for everyone. A culture of accessibility, when coupled with technology, leads to breakthrough innovations and a world that makes it easier for people with disabilities to create, communicate, learn, and work.

I am proud to be counted as a disabled female employee in one of America's best companies. Microsoft's recognition of the strengths brought by people with disabil-

ities, not only to our corporation but to our communities more broadly, has been a transformative force in how we meet our mission. We are grateful to the many individuals with disabilities—employees, leaders, advocates, and experts—who have enabled us to learn and grow on this critical journey. And we look forward to continuing to work with industry, policymakers, and the disability community to imagine, build, and empower the future of disability inclusion and accessibility.

[SUMMARY OF JENNY LAY-FLURRIE]

Microsoft has learned a tremendous amount during our decades-long journey regarding accessibility and disability inclusion. That learning has accelerated over the last 2 years as a direct and indirect result of the pandemic. People with disabilities make up one of the world's largest untapped talent pools, but we all need to act with bolder ambition to empower disabled talent to achieve more. Based upon our experience, we believe any disability employment discussion must include key areas for action:

1. Reframing disability as a strength. Too many private and public sector employers rely on dated understandings of disability and what is possible for individuals to achieve.
2. Driving technology awareness and adoption. Innovation in accessibility is enabling daily advances in empowering technologies—a rate of innovation that has accelerated as a direct impact of the COVID-19 pandemic.
3. Accelerating adoption of best practices. This stems, first and foremost, from always including disability in diversity, and can be realized when we all work actively to address barriers that exist for individuals with disabilities who want to enter the workforce.

The unemployment rate for individuals with disabilities remains double that for people without disabilities (10.6 percent versus 4.9 percent in the third quarter of 2021), and these rates are even higher for individuals with disabilities of Black, Hispanic, or Asian descent.

Accessible technology has grown rapidly over the course of the last decade but never more so than in the last 2 years. COVID-19 and the resulting virtualization of work drove accelerated demand for digital technology to communicate, interact, get information, work, and play. We saw an immediate spike in demand, support questions, and usage of accessibility features. Nearly 2 years in, that trend continues. It has driven us to prioritize and accelerate innovation in key areas including: content accessibility; accessibility in remote meeting tools like Microsoft TEAMS; and expanded legibility options that can assist individuals with learning, visual, or other disabilities like dyslexia. To help drive adoption and use of such technologies it is important to listen to people with disabilities; invest in training; make use of artificial intelligence and machine learning; and understand that accessibility is not just for people with disabilities.

Microsoft has also engaged in key employment strategies including its Neurodiversity Hiring Program; Supported Employment Program; Disability Hiring Programs; and Supplier Code of Conduct which requires payment of at least minimum wage to all individuals.

As Congress considers policy ideas to increase the employment of individuals with disabilities, they should look to policy that will: encourage the widespread adoption of accessible technology; ensure inclusivity and equity, including through fair pay and equal treatment for individuals with disabilities, such as with the bipartisan Transformation to Competitive Integrated Employment Act; and remove barriers and disincentives to work.

The CHAIR. Thank you, Ms. Lay-Flurrie.
We will now move to Mr. Kineavy.

**STATEMENT OF FRANCIS A. KINEAVY, DISABILITY ADVOCATE,
SEA GIRT, NJ**

Mr. KINEAVY. Good morning, Senators. My name is Frank Kineavy, and I am the CEO and cofounder of Let's Be Frank, a sports employment agency for the disabled and veterans. I am 30 years old, a graduate of Villanova University, screenwriter, entre-

preneur, coach, and political activist. I am a fan of all things 1980's, a college football enthusiast, a proud Jersey Shore lifer.

I was also born with cerebral palsy. I cannot walk, talk, or use my hands to write. From my resume and my Let's Be Frank website, you can see some of my accomplishments so far in my life. These achievements were not met without obstacles along the way due to my disability. Since graduating from Villanova, I have met with many barriers and frustrations in seeking employment and in being part of an organization.

Even though this hearing and my testimony will primarily cover the negatives, I have met and worked with some incredible people, like nationally renowned sports writer Tom Luicci, Villanova University men's basketball coach, Jay Wright, and football coach, Chris Malleo, who have empowered me and have become mentors well after our professional relationships ended. That being said, people like them are typically the exception, not the rule.

Every college graduate encounters pitfalls at some point in their career when it comes to finding a job and ascending the ladder of their chosen profession. With that being said, the obstacles of navigating the job search are compounded for people with disabilities. I sent out more than 15 applications a day and got little to no responses. Any interview I did get was riddled with questions regarding my skill. I was met with a lot of people asking, well, what can you even do? My answer was I could do anything everyone else could do, but I just do it differently. That answer did not seem to suffice.

I attended a number of job fairs, but instead of leaving with interviews or job offers, I left with free pens, swag, and promises to keep my resume on file. It was incredibly discouraging until finally someone took a chance on me.

Since my first job as a journalist at the Athletic Department at Rutgers University, being a person with a disability in an office environment has had its share of triumphs and pitfalls. For the first year of my writing career, I would go to work alone and use an adaptive keyboard to use the laptop. While this method seemed on the surface to enable me to be more independent, it would turn out to be too slow for me as I could only type one letter at a time. This was not a problem when I was navigating the web, but when it came time to write my articles, it would tend to be cumbersome and inefficient. One simple email would take 2 hours to compose, and given that my main charge was writing, this slowed down my production. I would have to come home and pay a scribe to help me complete my articles after the workday had ended. If I could only have that support during the workday, I could be churning out multiple articles a day.

Eventually, they hired a student worker to scribe for me 1 hour of each day. I was able to get more done, but money from my paycheck went to pay the worker. However, this allowed me to explore other facets of the industry. I even organized a golf outing to benefit the Rutgers University baseball team, which is an opportunity I would not have had if they had not given me accommodations and allowed me to step out of my comfort zone. This is unlike other jobs where I was kept in a box, pigeonholed into what supervisors knew I could do.

At a future stop along my career, this feeling of being pigeonholed became prevalent and it prevented me from reaching my full value. Most jobs I had did not even give me an annual performance review. When I finally got one, I was suddenly fired 3 weeks later.

My goal at each job I have is to be known for what I do, not what I have overcome. I want to be known as Coach K, not the guy in the wheelchair who coaches football. I want to be known as the CEO of Let's Be Frank, not as the guy in the wheelchair who has a business.

I am honored and excited to have this opportunity to speak with you today about inclusion of the disabled in the workforce and to share the prejudices I have personally experienced. It is my hope I will shed light on and have answers that will benefit our Country, our corporations and organizations, and the disabled community.

[The prepared statement of Mr. Kineavy follows:]

PREPARED STATEMENT OF FRANCIS A. KINEAVY

Hello, I am Frank Kineavy. I am a screenwriter, coach, mentor, local political advocate. I am a proud Jersey Shore lifer, who loves music and college football. I also happen to have cerebral palsy. Cerebral palsy is a congenital disorder of movement, muscle tone, or posture caused by abnormal brain development. The US sees less than 200,000 cases per year. I am here today to give you an overview of my journey in the professional world, the pitfalls I encountered along the way, and what I feel needs to be done for the disabled community to be more of a player in Corporate America.

I graduated from Villanova University in 2014 and have been trying to navigate the job market ever since. Just like any college graduate who starts their job search in the slow summer months, I found it difficult to obtain a full time job. With that being said, I found an additional roadblock that most of my college peers didn't meet: my disability. I sent out more than 15 applications a day, and got little to no responses. Any interview I did get was riddled with questions regarding my skill: I was met with a lot of people asking, "well, what can you even do?". My answer was, I could do anything everyone else could do, but I just do it differently. That answer didn't seem to suffice. I would go on the typical job fair circuit to prove in person what I was capable of, only to have hiring managers give me shirts and pins, never engaging in a serious dialog about hiring me, but always ensuring me they would "Keep my resume on file". It was incredibly discouraging, until finally, someone took a chance on me.

For the first 5 years of my career, I was a journalist—first for the Athletic Department at Rutgers University, where I wrote features on student athletes. Then in the news division of Diversity INC, a consultant for Fortune 500 companies regarding diversity and inclusion, I was responsible for writing 10 articles a week on trends and policies pertaining to the employment of people with disabilities. For the first year of my career, I would go to work alone and use an adaptive keyboard to use the laptop. While this method seemed on the surface to enable me to be more independent; it would turn out to not be the best method for me. The way I type is how most people type the first time they are in front of a computer, one letter at a time. This was not a problem when I was navigating the web but when it came time to write my articles, it would tend to be cumbersome and inefficient. To give you a reference, one simple email would take 2 hours to compose. Given that my main charge was writing, this slowed down my production. I would spend the whole work day composing a quarter of an article and pay someone to come to my home and finish. I knew that if I could only have that support during the workday, I could be churning out multiple articles a day.

After 3 months of going to work on my own and using all of my energy merely to operate the computer. My department was forward thinking enough to hire a student to come 5 hours a week to transcribe my articles for me. This worked wonders. I was able to focus on improving my craft and get creative with the stories I would pitch without having to waste so much unproductive time. Another unexpected benefit of having my scribe was I got my work done earlier and was able to get hands-on experience with other facets of the business. This was the time when I learned the type of work I flourished in. I was lucky to have two of my former subordinates from a prior internship on the management team. They trusted the work I had done

for them and saw my potential. Once I got my feet under me with my main responsibilities, they exposed me to a whole different space of the business when I suddenly was forced out of my comfort zone. This led to me growing professionally and widened my skill set. I think employers get into this habit of limiting people with disabilities to 1 or 2 tasks they know they could do. While it is great to have a speciality, it tends to put people with disabilities in boxes they can't break. Not only could this be limiting to the career of people with disabilities, it stunts the potential for the whole company. At future stops along my career, this feeling of being pigeon holed became prevalent and it prevented me from reaching my full value.

After my positive experience at Rutgers is when I experienced the pitfalls that many people with disabilities face in the workplace. Thankfully, to my knowledge none of my coworkers have ever explicitly questioned my validity, which is too commonly placed on people with disabilities. I feel I have missed out on many opportunities to grow professionally because of my disability. For example it is very common for professionals to have a yearly review. Where they sit down with their employees and grade their performance. During this time, the employee gets a better sense of where they are and what steps are needed to improve. I was with one company for 5 years and never sat down with my superior to hear what they thought of my performance. I was given this opportunity and lost my job 3 weeks later. I am at the point in my career where I have enough positive and negative experience to help corporations better utilize a block of talent that represents 20 percent of the population. I look forward to having a discussion with all of you today on how to improve the employment of people with disabilities.

The CHAIR. Thank you, Mr. Kineavy.
We will now turn to Mr. Dennis.

STATEMENT OF BRIAN DENNIS, WORKFORCE PROGRAM COORDINATOR, DISABILITY SERVICES, IOWA WORKFORCE DEVELOPMENT, DES MOINES, IA

Mr. DENNIS. Chair Murray, Ranking Member Burr, and distinguished Members of the Senate HELP Committee, thank you for the opportunity to testify here today.

My name is Brian Dennis, and I am the Disability Services Program Coordinator for Iowa Workforce Development. During my career, I have worked in direct care with persons who experience an intellectual disability. Through county-funded mental health case management, I was a self-sufficiency coordinator for local housing services. And, since 2013, in education and training and employment services through Iowa Workforce Development's implementation of the Workforce Innovation and Opportunity Act. Regardless of the organization, though, there has been one common theme throughout my career: Service to individuals who experience a disability.

I am the child of an educator who dedicated her career to special education and Head Start. My father was a construction worker who experienced firsthand the impact of trauma on America's veterans. And, as a result of growing up in that environment, I knew there were two things I did not want to do as an adult: One was be a teacher, and the other was to work in construction. However, when I am asked what it is that I do for a living, I say I help build people.

At the end of the day, what our Country, and honestly any Country, should be is a collection of people who are trying their best to build each other up. Unfortunately, despite what we may feel are our best efforts, oftentimes persons with a disability are left behind.

Research shows us three important trends. One, persons with a disability are less likely to hold any employment at any level. A lack of employment often leads to poverty, and if a person who experienced poverty, you have a shortened life expectancy. When you factor in the impact of COVID on the poor and those who have serious health conditions, it is not overstating to say that the full inclusion and advancement of persons with a disability in the workforce literally saves lives.

For myself, the impact of disability unemployment hit home in 2015 when I encountered a spinal cord injury. Ladies and gentlemen, it is not overstating it to say that my primary concern after my injury was not my inability to walk. It was the possibility of my losing my job.

Fortunately, I worked for an employer that afforded me a level of wage and the ability to maintain a savings. I had paid time off for medical appointments and the surgery that I needed to maintain my remaining mobility. I had private insurance that covered the majority of my healthcare costs, as well as benefits such as short-term disability. But, most importantly, I had an employer, colleagues, and supervisors who valued the fact that I could contribute far more than the manner in which I made those contributions.

Beyond my own experience, I have learned much from helping others with disabilities overcome their own barriers to employment. It is clear that there is a need to both create and maintain an open workforce system that understands and is responsive to the needs of persons who are the subject of today's hearings.

The State of Iowa was fortunate to participate in two rounds of the Disability Employment Initiative, or the DEI Project, and we serve hundreds of individuals with a disability through this special grant. DEI was jointly funded by the Office of Disability Employment Policy and the Employment and Training Administration, and it was aimed at improving the education, training, and employment opportunities and outcomes for persons with a disability who are unemployed, underemployed, and receive benefits from the Social Security Administration.

Based on the initial results of Iowa's DEI Project, as well as subsequent work that has been done across the State, it is clear that promising practices regarding serving persons with a disability include:

Access to benefits planning from the earliest stages of work readiness.

We need deeper conversations regarding accessibility, especially when it comes to establishing a core level of assistive technology that should be available to every American Job Center, providing training related to ensuring that all documents are provided in an accessible format.

We need to understand that disability is not just a diagnosis. It is also a culture, and it needs to be treated as such.

We need to work with our employer partners and help them understand that their labor force needs can be met by greater inclusion of persons with a disability.

Finally, with our ever-growing virtual workspaces, utilizing technology and the internet to help all persons work not harder, but smarter.

The new normal which COVID has introduced to our world, we must shift our employment focus to being more creative and less critical if we are effectively to work together to, again, help build people.

Thank you again for the opportunity to speak with you today. I look forward to answering your questions.

[The prepared statement of Mr. Dennis follows:]

PREPARED STATEMENT OF BRIAN DENNIS

During my professional career of over 20 years, I have worked in direct care with persons who experience an intellectual disability, through county-funded mental health case management, as a self-sufficiency coordinator in local housing services; and since 2013 in education, training, and employment services through the State of Iowa's implementation of the Workforce Innovation and Opportunity Act (WIOA). Regardless of the organization, there has been one common theme to my career, service to those who experience a disability. I am the child of an educator who dedicated her to life to working in special education and Headstart, my father was a construction worker who experienced first-hand the impact of trauma on our Veterans. As a result of growing up in this environment and seeing how hard both my parents worked; I knew there were two things I never wanted to be as an adult, one was a teacher and the other was a construction worker. However, when I am asked what it is that I do now, I say I "help build people".

At the end of the day what our country and what any country should be is a collection of people who are trying their best to build each other up. Unfortunately, despite what we may see as our best-efforts persons who experience a disability are often left behind. A report from the Bureau of Labor Statistics (2020) shows that less than 20 percent of persons with a disability are working at any level, while almost 62 percent of persons without a disability were employed. Over 25 percent of all persons with disability live in poverty, while the poverty rate for those without a disability is just over 11 percent (ACS, 2020). Finally, when looking at life expectancy, a Congressional Research Study (2014) found that when comparing high income to poverty life expectancy, women of high income live over a decade longer than women in poverty and high-income men live almost 15 years longer than low-income men. When you factor in COVID's impact on the poor and those with significant health concerns, it is not overstating that the full inclusion and advancement of persons with disability in the workforce literally saves lives.

Employment is how we participate and make change in this country, it not only provides income to support ourselves and our families, but it is also how the majority of Americans access healthcare, it creates the foundation of our social networks, gives us a purpose to begin and end our day pursuing and for so many of us it is the base for our very identity. Afterall, how many times do we begin a conversation with a new person by asking "where do you work"? Our K-12 education system is anchored on either preparing us to enter the world of work, or continuing our educational journey; in order to ultimately enter the world of work. In America, employment is the building block of being a fully realized and contributing citizen.

Therefore, if employment opens the door to the American Dream, the inability to obtain and maintain employment is the first step to living the American Nightmare. For far too many of our neighbors this nightmare is a growing reality, especially for those who experience a disability. For myself, the impact of disability on employment hit home in December 2015, when I acquired a spinal cord injury which requires me to use a wheelchair. Ladies and gentlemen, I can tell you that after my injury the emotions I felt weren't mourning over my difficulty with walking, it was terror over possibly losing my job. Attending medical appointments to understand what was happening to me physically was a distant 2d or 3d place concern to showing up at my desk everyday to provide for my family and to maintain my sense of self-worth.

Fortunately, I worked for an employer that afforded me an income that allowed me to have money in savings, I had paid time off for medical appointments, testing and the surgery that was required to maintain my remaining mobility. I had private insurance which covered the cost of the majority of my medical expenses, as well as benefits such as an FSA and short-term disability which helped cover the rest.

But most importantly I had an employer, colleagues, and supervisors, who valued the fact that I could contribute far more than the manner in which I made those contributions.

Beyond my own experience, come the lessons learned for helping others overcome the barriers to employment for people with disabilities. During my time in various roles assisting individuals who are at the heart of these hearings is the need to create and maintain a support network and vocational system that understands and is responsive to the needs of this population. Much of what I have learned was during my work on the local and state level as part of the Disability Employment Initiative or DEI project. The State of Iowa was fortunate to host two rounds of the DEI project and serve hundreds of Iowans with disabilities over six and a half years. DEI was a jointly funded initiative by ODEP (the Office of Disability Policy) and the Department of Labor which aims to improve education, training and employment opportunities and outcomes for youth and adults with disabilities who are unemployed, underemployed and/or receiving Social Security disability benefits.

During the State of Iowa's first round under DEI, the focus was on providing benefits planning to persons who receive SSDI and/or SSI benefits from the Social Security Administration. SSA currently provides benefits to over 12 million individuals through its Title II (SSDI) and Title XVI (SSI) programs (SSA, 2021). A person understanding how their cash and insurance benefits may be impacted by moving to employment is understandably, for many, the first and most integral part of returning or initially entering the workforce. During DEI, the State of Iowa strategically placed staff trained in benefits planning in multiple American Job Centers across the state. As a result of this initial round of the DEI, the State of Iowa currently has 26 staff across Title I and Title III of WIOA who are trained or are in training related to benefits planning; as well as Iowa Workforce Development and Iowa Vocational Rehabilitation Services (IVRS) support a combined Benefits Planning Network to make benefits planning a readily available resource to any job seeker, family member and/or paid support who needs this assistance. The expanded use of benefits planners in all AJC locations nationally from the earliest stages of work readiness will create and sustain the value-add of workforce services to persons with a disability and our collateral partners.

The subsequent round of the DEI project was focused on credential attainment and career pathway development. Again, hundreds of individuals were served by specially trained staff placed strategically across the State of Iowa, all with the goals of attaining an industry-recognized credential and moving to employment which would afford them to wage level to reduce and quite possibly reduce their reliance on public benefits (SSDI, SSI, SNAP, FIP, Public Housing, etc.) While not all individuals were successful, the data was not only extremely encouraging, but also demonstrated an undeniable concept; if you build a better system, individuals will access it.

Following the conclusion of Iowa's participation in the DEI project; IWD and its partners under WIOA continued the momentum of the Disability Employment Initiative through the various Disability Access Committees (DACs) across the state and each of the Iowa's local workforce development areas. Understanding that per the WIOA, the American Job Centers (AJCs) are expected to meet the needs of their customers by ensuring universal access to their programs and activities for all eligible individuals, much discussion has occurred at all levels regarding innovation and best practices to both job seekers and employers.

Much of the discussion has revolved around ensuring that those services are accessible not only physically, but programmatically and sensitive to various needs and cultures within the disability community. A great deal of this work needs to occur at a high level, to ensure and mandate its inclusion and efficiency, such as establishing a core level of assistive technology (AT) that would be available at every One-stop Center, especially for those who communicate differently such as the Blind and Deaf and Hard of Hearing communities. This includes the provision of training related to the creation of accessible materials to ensure that all persons have access to the information under the WIOA umbrella. The hiring of Career Planners who are fluent in American Sign Language (ASL), should be seen as the same imperative as is having Career Planners who are fluent in any other spoken language. Further this should include the integration of evidence-based practices such as Discovery assessments and the use of the Integrated Resource Team (IRT) model of service coordination.

The COVID-19 pandemic has not only provided great challenges to our country but has also created space for great opportunities. More and more the job market allows for increased creativity regarding how and where work can be performed.

The use of technology allows an increasing number of workers to work from home and through telework. This use of technology can be used as a means to increase the number of persons with a disability which are part of any work environment. However, innovation does not come without a cost, and the availability of and familiarity with technology related to computer skills proficiency, Wi-Fi availability and continued transportation needs must be addressed. Virtual services are effective if applied pre-employment as well through virtual job fairs and the use of the Reverse Job Fair model. In the new normal which COVID has introduced to our world, we must shift our employment focus to being more creative and less critical if we are to work together to effectively “help build people”.

[SUMMARY STATEMENT OF BRIAN DENNIS]

During my professional career of over 20 years, I have worked in direct care with persons who experience an intellectual disability, through county-funded mental health case management, as a self-sufficiency coordinator in local housing services; and since 2013 in education, training, and employment services through the State of Iowa’s implementation of the Workforce Innovation and Opportunity Act (WIOA). Regardless of the organization, there has been one common theme to my career, service to those who experience a disability. I am the child of an educator who dedicated her to life to working in special education and Headstart, my father was a construction worker who experienced first-hand the impact of trauma on our Veterans. As a result of growing up in this environment and seeing how hard both my parents worked; I knew there were two things I never wanted to be as an adult, one was a teacher and the other was a construction worker. However, when I am asked what it is that I do now, I say I “help build people”.

When addressing the barriers to employment for people with disabilities (PWD) we find:

- PWD are less employed
- Live in higher levels of poverty
- Have shorter lifespans

When addressing the best practices to employment for people with disabilities (PWD) we find:

- Lesson learned from DEI projects
- Access to Benefits Planning
- Establishing core level of AT
- Training related to accessible documents
- Understanding the various cultures with the disability community
- Introduction of Evidence-based practices
- Use of virtual avenues to job fairs, recruitment, and employment
- Think creatively, not critically

The CHAIR. Thank you very much, Mr. Dennis. Thank you to all of our witnesses today for really excellent testimony. I look forward to your responses to our questions. I will ask my colleagues to please keep track of your clock and stay within those 5 minutes, and I will begin.

Ms. Lay-Flurrie and Mr. Dennis, I want to start with you. Like so many other workers, people with disabilities have struggled [audio malfunction]—no worries—have struggled with the pandemic’s impact on our economy and experienced unemployment and underemployment. Yet, as workplaces adjusted to the pandemic and implemented remote options, we have also seen the use of inclusive practices that have made work more accessible to everyone.

Continuing and expanding those innovations, like having closed captioning to be more common in a virtual meeting, or having a remote option for a workforce training program, can actually boost

accessibility in our workforce programs and businesses. This is really critical to people with disabilities so they can access quality workforce training programs, find a job and get hired, and do their jobs successfully with the accommodations they need.

Ms. Lay-Flurrie, Mr. Dennis, how can we ensure our workforce programs and our businesses are implementing inclusive practices that will ensure workers with disabilities have the support they deserve? Ms. Lay-Flurrie, I will start with you.

Ms. LAY-FLURRIE. Thank you for your great question. I do believe, and we have seen an incredible increase in usage and demand on accessibility during this period. I will give one very quick example, which is the use of captioning.

Microsoft Teams has an automated captioning that has grown 3600 percent in this period. There is actually a wealth of accessibility goodness that is in devices right now that I believe that many Americans are not aware of, so the first thing that we would recommend is a clear focus on education. We educate all of our employees, and we found many of our customers and partners taking that training to their own environments. A very simple 20-minute virtual training can educate people on tools that are right in front of them.

I think the other one is to be a role model employer, so making sure that—that here, Congress that everything that you do is leveraging those tools, making sure that your emails and documents are accessible and you are just hitting the spellcheck function. Simple things like that can make a very big impact. But, let me also defer to my colleague.

The CHAIR. Mr. Dennis.

Mr. DENNIS. Thank you. Echoing the comments of my colleague, first off is we need to provide education. There is a wealth of knowledge that not only exists in the devices that we are—that are commonplace in many of our workplaces and many of our homes, across our various employers, but there are a wealth of resources.

Speaking from the workforce development side of things, there is so much that we do in work with our employers to really talk about labor market information when it comes to growing industries, income level, benefits that really attract employees. We need to also include the focus on how do you track in, again, this missing and underrepresented workforce.

Speaking to them, details such as through the Job Accommodations Network, how to make your workforces more accessible. These take into account when it comes to disability and benefits plan that employers can utilize where they can minimize those conversations that sometimes happen between employees and employers regarding the impact of benefits; understanding that it truthfully is getting the work done and not the manner in which we get the work done that really matters. So, looking at their job requirements, the essential functions of those duties, and really helping them become educated.

We need to deploy greater use of our vocational rehabilitation partners to really, again, help bolster that information; to really, again, be a model for the Nation, so what we do through our Federal and State offices to make sure that they have an open culture. Again, disability is such a culture that we need to make sure that

we are integrating that in the work that we do so then we can be that shining example for our employer partners; and again, work together to help persons across this Country move to a greater employment and greater self-sufficiency.

The CHAIR. Thank you. We know people with disabilities face discrimination in hiring decisions. Actually, in 2020, disability discrimination formed the basis for more than a third of the charges filed with the Equal Employment Opportunity Commission, from discriminatory wages, inaccessible workplaces, persistently low and false expectations about what they can accomplish.

People with disabilities should not face such bias in the workplace. This is ableism, plain and simple, and it is one reason why I actually introduced the BE HEARD Act in the Workplace to improve protections against workplace discrimination for people with disabilities, and others.

Mr. Kineavy, in your experience, can you tell us about the discrimination and employment barriers people with disabilities continue to face even 31 years after we passed the Americans with Disabilities Act?

Mr. KINEAVY. Discrimination starts with the attitude that we are not on the same level as everyone else.

For this hearing, I asked my friends who also have disabilities for their experiences in the workplace. Two of them have successfully graduated from law school and are practicing attorneys, and the other works in the non-profit sector.

Despite this level of success, they are still met with discrimination and ignorance. Both of these individuals are visually impaired and use a screen reader when using a computer. They rely on technology to be productive, but frequently, the systems at their workplace are not compatible with the devices they use to do their work. The technology to fix these problems exists but is not widely used. It is important to note that creating this accessible technology and utilizing it would ultimately save workplaces money as they would not have to do so much damage control.

One of these peers, before she even got to college, completed an internship with First Lady Michelle Obama when she was in the White House. A few summers later, she did an internship at a law firm where she was met with blatant discrimination and horrible comments about her disability. Unfortunately, even to this day, she continues to be met with discrimination. Her current team members infantilize her and worry that she cannot handle certain things despite her impressive resume and proven skill set.

It may be thought that workplaces in the non-profit sector would be more inclusive. However, this is sadly not often the case. One of my friends who worked for a non-profit mentioned the lack of reasonable accommodations. When she would ask for these to be fulfilled, she was constantly told it could not be done over and over again until she was eventually fired.

To directly quote one of these peers, the disability unemployment rate is so high, in my opinion, because people know that they will encounter inaccessibility, and they feel shut out of the workplace before they have even started.

The CHAIR. Thank you.

We will turn to Senator Burr.

Senator BURR. Thank you, Madam Chairman.

Frankie, let me stay with you if I can. What would you wish more employers knew about hiring individuals with disabilities?

Mr. KINEAVY. I feel that employers, even the good ones, feel as if just having a secure job makes people with disabilities content.

If someone chooses to go into Corporate America, most likely they are ambitious and possibly a little cut-throat. People with disabilities worry about career trajectories just as much as anyone else. I could even argue that they think about it even more because they worry they will never get a shot.

It is critical that employers just do not see us for what we can do now, but what we can grow into. I am always asked in job interviews, well, what can you even do? I always answer, I can do anything anyone else can do. I just have to do it a little differently. But, the job still gets done.

For example, for the question and answer part of today, you all were kind enough to send me your questions in advance. Now, would that give a job applicant with a disability an unfair advantage? That is a question that each company should wrestle with, and it certainly is not being asked in corner offices.

We also have to ask this question: Is it unfair that without preparation it takes me twice as long to answer a question than anyone with the ability to speak?

Senator BURR. Thank you for that.

Ms. Lay-Flurrie, I agree with you that technology has a new, unlimited potential as it relates to those disabled. I remember when I woke up one morning and could not see quite as good as I could the day before. I think all of us up here have that. We stick on glasses and the world changes. And, as I grew older, all of the sudden, my hearing was not quite as good, and I have these things that go in my ear now. It was not until that happened that I realized there was an accessibility mode on my phone.

I am not sure that the average person out there understands that everything that we have become accustomed to, our everyday life, is slowly, but surely, through technology, accommodating the needs of individuals with disabilities.

What would you say to smaller businesses that want to be more inclusive but may not have the same resources that you have at Microsoft?

Ms. LAY-FLURRIE. Well, first, welcome to the cool gang. I am very glad to welcome you to the disability community. I do—

A couple of things. From a demographic perspective, most people are coming our way. Disability is a part of being human and is closely correlated with age. And, so, that being a fact of life, it is important on everyone to really get educated, and not just on the cool tech stuff, but also on the basics of disability, which I think is for everyone. In fact, it is all for everyone.

Really getting educated and being confident about how to talk with a person with a disability on the etiquette, on the language, on being curious and asking the right questions. Having that confidence is absolutely step one.

Going beyond that, then really getting educated, again, as you did, on the wealth that is embedded in devices, and knowing the

right channel supports and constructs to ask for additional support as and when you need it.

In terms of a small business, there are no blockers for any individual doing this. These are resources. These are education and training, as well as technical features that are available to everyone across America. And, I would encourage you that if you do not know someone with a disability, if you have not hired someone with a disability that should be your first step.

Senator BURR. Okay. Dr. Schur, I believe that an honest day's work is part of the American Dream. In your research, what have you found about the importance of employment for the disability community?

Dr. SCHUR. That is an important question and we could spend a lot of time talking about it. But, just basically, lack of employment is a major contributor to poverty, and close to a quarter of working-age people with disabilities live in poverty. That is compared to one-tenth of people without disabilities. So, on that basic level, increasing employment among people with disabilities is essential.

I also agree with what you said earlier about the social and psychological importance of work, as well. Work can give people a sense of dignity and helps people be part of the larger society. One of the big problems that a lot of people with disabilities face is social isolation and segregation; that they are removed from regular society and interacting with people, and getting up and going to work, and having a job, and so forth. So, for all those reasons, from economic, psychological, and social, I think employment is a key, key aspect.

Senator BURR. Thank you. Thank you, Madam Chairman.

The CHAIR. Thank you.

Senator Casey.

Senator CASEY. Chair Murray, thank you very much for this hearing. I want to thank you and Ranking Member Burr for this opportunity.

Before I ask my questions, I would ask unanimous consent that two letters be entered into the record with suggestions for increasing disability employment. No. 1, a letter from the National Developmental Disability Network for Programs, and then a second letter from the National Disability Rights Network. I ask that both be entered into the record.

The CHAIR. Without objection.

[The following information can be found on pages 48 and 54 in Additional Material:]

Senator CASEY. Thank you, Chair Murray.

I will start with Mr. Kineavy and Mr. Dennis. Mr. Kineavy, in your testimony, you said that people with disabilities, quote, desire to excel at work, advance in their careers, and be productive in those roles, unquote.

Mr. Dennis, you stated that your job is to, quote, help build people, unquote.

One way to help meet these goals is through assistive technology, and we have—you have heard from a number of our witnesses today about it. I am proud to lead with my Senate colleague, Senator Hassan and Senator Collins, the bipartisan 21st Century Assistive Technology Act to expand access to assistive technology for

people with disabilities across the lifespan. A version of our bill passed out of this Committee back in August 2021.

Both of you are assistance technology users and have direct, firsthand knowledge of the value of assistive technology, so here is the question. Please share with us how this technology makes it possible for you to work; and second, why assistive technology is important to making work possible for people with disabilities.

We will start with Mr. Kineavy.

Mr. KINEAVY. My relationship with assistive technology has been interesting. My disability falls in the place where I move too much for half of them, such as Eyegaze, but do not have enough control of my body for the other half, such as tablets. When I use the paperboard, which is attached to my chair, the person I am talking to is able to figure out what I am saying, even if I miss a letter.

Throughout my childhood, I worked closely with Dr. Joan Bruno, who developed the software to help me communicate. Unfortunately, it was not the best option for me due to my athetoid movements, but the software and the devices are still offered today, helping other people with disabilities overcome the communicative barrier.

For me personally, better technology would open up so many job opportunities. For example, in college, I thought I wanted to be a history teacher, but I decided not to pursue that because I did not have an easy way to communicate fast enough. I even took a counseling class at a university, but after one semester, they told me they could not see it working for me as a career due to the communication barrier.

The problem is not always that there is a lack of assistive technology. It is that finding the right device that matches your physical ability is hard. Affordability is key, too, and most insurance providers consider high-power assistive technology as a luxury, not a necessity. I am fortunate that my family has the means, but we still feel the hit, and that hit is bigger for other families.

Assistive technology could open up the ability for face-to-face communication as close to real time as possible. For example, as a coach, I am limited to how much on-field teaching I can do. If I had a communication device that could be closer to real time, instead of spelling out sentences word by word, letter by letter, I could be an even more successful coach.

That is true for meetings in the business world, as well. There is nothing more frustrating than having something to contribute to the conversation, taking the time to spell it out, and by the time my scribe or device is ready to say it, the rest of the group has moved on to another topic.

This is not just about assistive technology, but it is about the dignity of my voice being heard in the room where decisions are being made.

Senator CASEY. Thanks very much.

Mr. Dennis.

Mr. DENNIS. Thank you, Senator, for your question. First off, the single biggest piece of any piece of assistive technology is attitude. Having the greatest piece of technology with bells and whistles will not be effective if we are—if our workspaces are not open to allow-

ing those sorts of devices, or if there is a misconception what assistive technology is.

Every single one of us uses assistive technology every single day. If you sit at—in an office chair and you adjust the height, it is assistive technology. If you adjust your seat in your vehicle, it is assistive technology. If you wear eyeglasses, regardless of your level of vision, it is some level of assistive technology. So, the stigma that exists around assistive technology is already a misplaced, preconceived notion because it is something that is part of every single piece of our workspace.

When I was in grad school, I had to go to an employer and do an accommodations survey. And I asked the H.R. representative—this was a feed warehouse. I asked him to tell me about any accommodation provided to their staff. They had no idea what I was talking about. Quickly, I saw that they had accommodations for a lady who worked in their reception office, and they go, well—and this is not her real name—they go, well, we do not do accommodations. We just want to keep Mary employed. Well, employers need to understand that not only doing these things help people move into employment; they help you maintain employment.

As you heard my colleague discuss, cost is a huge factor. I acquired my disability. I utilize a wheelchair. I acquired my disability when I was 39 years old, so I had already navigated the—my childhood, my adulthood, my K through 12 education, college, and most importantly, my workspaces as an able-bodied person. So, when I encountered a disability, they wanted to maintain me because I already had some of those sorts of capital within the areas in which I was working. For an individual born with a disability and are entering employment for the first time with these needs for accommodations, with these needs for assistive technology, the access to the technology is key.

But, we have to make sure that our employers understand that technology is a requirement for all of us to have it work well and have that open attitude and openness in the workspaces. But, again, the cost is extremely high with AT, and it is great to hear that there is assistance—

Senator CASEY. Thank you.

Mr. DENNIS [continuing]. that is coming.

Senator CASEY: Mr. Dennis, thank you very much.

Thank you, Chair Murray.

The CHAIR. Thank you.

Senator Marshall.

Senator MARSHALL. Thank you, Madam Chair. I will start with Mr. Dennis. We will go back to you here.

What does outreach to those with disabilities look like in rural communities?

Mr. DENNIS. In rural communities, it is, again, understanding that disability does exist in every segment of our Country. Most research shows that we have at least one in four individuals, and it is probably higher than that, but at least one in every four individuals in our Country has some level of disability.

First off, it is, again, doing those outreach to those spaces and really having individuals who experience disability integrated into your community. So, starting oftentimes with those providers that

are working with individuals, so those in-home providers, the HCBS, home and community based services, your services throughout—through your local area Department of Human Services.

But, the outreach begins with opening the doors to what capabilities and possibilities lie with you. I truthfully believe that there is nothing about us, without us. So, having those persons doing that outreach, being a part of the disabled community, having individuals that can share personal stories, which you have heard many of today.

Again, opening those doors that—for those smaller communities that are really struggling, and trying to create economies that are lasting. We need to all work together. And again, bringing those individuals into your employers, regardless of the sectors of employment that they represent.

Senator MARSHALL. Thank you so much. I will go to Ms. Lay-Flurrie, if I could. You referenced Microsoft's commitment to the disability divide. What policies do you see as barriers or opportunities as you strive to reach publically stated goals on the unemployment rate of people with disabilities?

Ms. LAY-FLURRIE. Thank you for the question. So, the barriers and opportunities here, the way that we framed our approach for the disability divide, is to raise the bar on accessibility. That also means raising the education and availability and affordability of accessibility, and then also working to specifically tackle and grow the number of disabled talent in the pipeline.

I think the things to consider as we go forward is that there are policy hurdles. And I think as we look at policy, it is incredibly important to really unlock and address any closed doors that exist there, that may exist. Income limits, for example, subminimum wage.

If I think about technology and I think about actually the previous question with rural, is how do we get technology into people's hands. There is also the digital divide, and connectivity is a core part of the overall solution. So, how do we empower not just the cities, but how do we empower America to have access to this noted area, as well.

Senator MARSHALL. Thank you so much. My last question will go to Dr. Schur. A recent study by researchers at Johns Hopkins concluded COVID lockdowns in Europe and the United States reduced the COVID-19 mortality by only an average of 0.2 percent, but obviously caused enormous economic and social costs wherever they were implemented. What impacts have lockdowns, mask mandates, vaccine mandates had on community engagement for individuals with disabilities? This is for Dr. Schur.

Dr. SCHUR. Well, a lot of people with disabilities also have compromised immune systems, so it was absolutely essential. For instance, me and my family, we really had to not go anywhere for quite a while. So, while it might make it more difficult in some ways to communicate, I feel that in terms of health and being sensitive to the needs and vulnerabilities of a lot of people with disabilities, it was very important.

I also just want to turn to what other panelists said about digital technology, and thank goodness we have had this. And even though we might be all very sick of Zoom meetings, it enabled people to

communicate and not have as much isolation as they would have otherwise. And I—

In some ways, it increased communication. I communicate with people in Italy and China and California all the time, so that has increased I think kind of social connections, social capital, and enabled me to do my work more effectively.

At the same time, I think Ms. Lay-Flurrie raised a really important point about the digital divide. And it is important to note that while 67—6 percent of people with disabilities in the U.S. do not have internet access, 18 percent of people with disabilities lack internet access, 18 percent of people with disabilities. So, that is an important—that is an important point, and I think it is very important to have more digital access and more connectivity.

The CHAIR. Thank you.

Senator Murphy.

Senator MURPHY. Thank you very much, Madam Chair, Ranking Member. Thanks to our great panel.

Listen, I have been listening to this hearing from my office, and I am glad to be here just to raise one additional topic for discussion here.

I appreciate Senator—both of Senator Marshall's questions. I think it is right that we have to understand people with disabilities have increased exposure to pandemic disease, often immunocompromised, comorbidities. And, we also have to understand that if you look at the percentage of people with disabilities in the workforce that are working retail jobs, manufacturing jobs, jobs that are sort of on the front lines, it is higher than the non-disabled population, and so they were in some ways at greater risk at the beginning of the pandemic.

The issue I wanted to raise was about accessibility of transportation for people with disabilities. This is obviously a critical issue no matter where you live. But again, Senator Marshall raised the specific question of what it means to live with a disability in a rural community. And though Connecticut has the reputation as being just one big suburb of New York, we actually have plenty of rural communities in which transportation is a real barrier.

One study suggested that 20 percent of all transit stations in the United States are not in compliance with the Americans with Disabilities Act. That is really stunning having had the ADA on the books for as long as we have.

I would be happy to have anybody answer this question, but maybe I will direct it to Mr. Dennis, since you are working in a State with big rural communities. What do we need to do better when it comes to accessibility of transportation knowing that the Bipartisan Infrastructure Bill actually had a dedicated amount of funds—\$2 billion, not a small amount of funding—for this very question, making transportation more accessible to individuals with disabilities?

Maybe ask it to Mr. Dennis, Dr. Schur, whoever wants to answer. What do we need to do better when it comes to getting people with disabilities onto our transit systems and into transit options?

Mr. DENNIS. Again, thank you for your question.

First off, obviously persons who experience disabilities, transportation is a huge barrier whether you live in an urban or a rural

community. But, speaking specifically about our rural community, again, is making sure that they understand that they have a high customer utilization base that are persons with disabilities.

Number one, you need to always fall in line with the law, but also helping them understand not only the requirements of accessibility, but the implicit, unintentional probably biases when it comes to that.

I live in a local area where, while I drive a vehicle, I use the public fairways to get around, and I have noticed that oftentimes our buses may not have things, such as lifts, to make the—help individuals get onto the vehicles; timelines, when it comes to routes and where persons and individuals live, that they are even accessible; drivers understand how to utilize the equipment; and honestly, having spaces for our buses to offload and upload passengers who use that assistance now is a continued barrier.

It is education. It is obviously holding people accountable to the law. And, one of the great things that our local transit authority does, and I think needs to be replicated, is they do have a riders advisory group are in—that is comprised entirely of persons with a disability; to, again, continue to give that guidance from the user side of it of what they need to do better as a public transit authority.

Senator MURPHY. Maybe direct the question—I actually would love to hear from you Ms. Lay-Flurrie just as an employer. What do you think about in terms of making sure that individuals with disabilities have access to your place of employment? Are there things that employers can do to try to make sure that their employees have—individuals with disabilities who work for them have access to transportation options?

Ms. LAY-FLURRIE. Well, I think it is an incredibly important point. And I think a lot of the issues on accessible transport, which I do not claim to be an expert on, but those issues are very well documented, particularly when it comes to aircraft and transportation. You know, as I just flew from Washington State over the weekend, the number of wheelchairs that are embedded and damaged—and that is one incident—we do, of course, look at transport for our candidates.

We have 7.1 percent of our employee base have disabilities. Transport to and from the office is clearly a consideration. And one of the benefits of the pandemic has been the ability of the immediate switch to work from home for many of those, and some of those will remain working from home. The joy of digital technology, of course, allowing them to have full work access, and no change in that in terms of career growth and everything else that comes with it.

I think it is an area that needs a lot more investigation, and it is, of course, something that we as employers look at.

Senator MURPHY. Thank you, Madam Chair.

The CHAIR. Thank you.

Senator Braun.

Senator BRAUN. Thank you, Madam Chair. I have two questions, one for Mr. Dennis and one for Ms. Lay-Flurrie.

I am—before I came here from Indiana, I was on a school board for 10 years and our State legislature for a few years on the Edu-

cation Committee, but was always frustrated as a small business owner. Eventually, we became a much larger company. Our biggest issue was finding employees, that guidance counselors were not even offering the kind of recommendations to look at. That trajectory curricula was certainly not in place to provide that kind of knowledge.

In a State like Indiana, we have great colleges, universities. We ship out about twice as many 4-year degrees as we actually keep in State. But, I think what bothered me the most is when I looked in our own county, our guidance counselors were not even bringing up that option of a career in technical education. You know, that is bolstered by the fact that not only were we exporting 4-year degrees, half of that advice given to individuals send you into a journey where half do not complete it. They come away losing time and in debt.

Another—and about a third of the ones that get a 4-year degree have not been guided in a way to where it is really marketable, and I have to imagine that is even worse for individuals with disabilities when you have a system that does not seem to be looking at the marketplace.

Mr. Dennis, I would love to hear your opinion on whether you think we are guiding kids, and now parents because they have had a kid or two probably back in the basement after being misguided. Have you seen that same issue? And could you maybe expound on why that might be even worse for individuals with disabilities if you are not getting the proper guidance?

Mr. DENNIS. Thank you again for your question. So, what you will see across almost all segments of our world is a soft bigotry of low expectations for persons who experience a disability. So, many times—oftentimes, out of good intentions, family members, advisors, and throughout the education system, including post-secondary, often do a really quick assessment based on what it appears a person can do and do a lot of advising from the aspect of keeping people safe. What winds up happening is we do unfortunately sometimes advise people to move into sectors we feel will help them in a safety standpoint without figuring out how do we really advise a person to do what is best. Some of our academic assessments do not play well with individuals who experience a disability, whether intellectual, whether it is a learning disability, so the results of that sometimes can be skewed.

The other big piece of it is because of the—an increased cost of being a person with a disability, many times doing a 2-to 4-year academic degree is not the best stance for them due to their life situation. So, many times there is a need to increase individuals doing things such as a registered apprenticeship.

I personally would love to see greater representation in the earn-and-learn model for persons with disabilities just, again, because so many of those costs that come with being a person who experiences a disability, that pathway can oftentimes yield greater impact and results, again, based on the other parts of their lives.

Senator BRAUN. Thank you. Ms. Lay-Flurrie, the other thing I have noticed, too, trying to find ways as an employer to do things on our own that works with your school systems. Can you talk a little bit about have employers done enough to utilize training in

middle school and high school? How much more should they do to especially help the disabled find a job within their own workplace?

Ms. LAY-FLURRIE. Thank you for the question. Microsoft is one company of many who is looking proactively for disabled talent. We want and need that in order for us to produce inclusive, accessible goods.

Yes, we are actively looking at what we can do to increase particularly the college pipeline where we know there is a heavy drop-off between high school and college. It is one of the most significant drop-offs, often because of cost, but also there is other issues in terms of accessibility within the university framework and other problems that can occur in that timeframe. And, so, yes, I would say that not just Microsoft, but many others, we are invested here, but there is always more that we can and should be doing.

I would also encourage anyone to not put a ceiling on what they believe themselves is capable to do and to really self-advocate for what they need. That is one of the other things we end up coaching a lot is really the importance of self-advocacy.

I think there are some fundamental real blocks here that we need to break down when it comes to particularly digital accessibility and the education around that.

Senator BRAUN. Thank you.

The CHAIR. Thank you.

Senator HASSAN.

Senator HASSAN. Well, thank you, Chair Murray and Ranking Member Burr for this hearing, and thank you very much to our witnesses for participating.

Mr. Kineavy, I want to start with a question for you. First and foremost, I want to thank you for sharing your personal experience in figuring out what you needed to be successful in the workplace. You have shared how important it has been to have direct support while working, in your case, having a scribe so you can work more efficiently, which frees up time to focus on the things that you are best at.

One of my priorities in the Senate is to increase support for home-and community-based services, which provide integral support to individuals with disabilities so that they can fully participate in their communities, including at work.

Mr. Kineavy, how do you think expanding access and improving home-and community-based services will help more individuals with disabilities not only gain employment opportunities, but thrive in the workplace?

Mr. KINEAVY. Technology, technology, technology. I have been stunted not just at work, but in my everyday life. Hobbies, dating, socializing, whatever you name, it is hindered by my inability to communicate efficiently. That is the key word. I like to think I am an effective communicator, but I am not an efficient one.

If the government could join up with tech firms, like Silicon Valley, or even organizations like NASA, that has the capability to access information at the tip of their fingers to develop technology, most of which is already available, to better assist people with disabilities in being an active member of the community, every aspect of their lives will fall into place.

For example, two of my best friends from college are blind. We cannot have a one-on-one conversation. It is like playing telephone. I have to rely on whoever my assistant is reading my board correctly, relaying the message to my friend, instead of them just directly reading what I am typing.

My freshman year, kids on campus, through no fault of their own, would talk to me through my assistant. Even at meetings, people would begin their comments with “Tell Frankie” instead of just saying it directly to me.

One professor at Villanova, who I did not even know when I was a student, has dedicated his engineering students’ capstone assignment to developing a device that will help me communicate with others. This gives me great hope for the future of accessibility.

There will be failures. Even NASA did not make it to the moon on the first try. But, if enough people, who are smarter than you and me, put their heads together, we can create a more accessible world.

Senator HASSAN. Thank you very much. Let me move to a question for Ms. Lay-Flurrie.

Each year in New Hampshire, five businesses are given an employment leadership award to recognize their inclusive workplaces and commitment to workers with disabilities. Employers who are recognized often say that their work to be more inclusive has made their business and all of their workers more successful.

Ms. Lay-Flurrie, you have said that disability is a strength and that inclusive policies make everyone stronger. Can you share how this has been the case at Microsoft?

Ms. LAY-FLURRIE. Thank you so much for the question. Yes, of course. I think the easiest example would be our Neurodiversity Hiring Program, which we started as a pilot to see if we could open doors to particularly autistic talent, and we have expanded it since then.

One of the underestimated and non-appreciated benefits that we did not realize at the time would be the impact that it would have on the teams. We have been able to bring in autistic talent now into 12 divisions within the company, anything from Xbox to Windows, and often their teams, the individuals and their managers, come back to us and say we need more. We ask why, and the simplicity is that they say because it makes us better.

The simple accommodations that are often put in place for these individuals are clear expectations, written meeting notes, and absolute guidance on what they need to do to deliver on their job. That is guidance that any individual needs. And, so, I think it is one example of many that exist when you hire disabled talent.

Senator HASSAN. Well, thank you for that. Another question to you, because it is another issue that I am spending considerable time and focus on, is the importance of ending the practice of paying workers with disabilities subminimum wages.

I am proud that when I was Governor of New Hampshire, I signed a bill to end this practice in our State. Why do you think it is important for workers with disabilities to earn competitive wages?

Ms. LAY-FLURRIE. Well, thank you first to you for signing that, and to the other 10 States that have also signed similar.

We absolutely believe in fair wages for all. We have learned that because—well, for two reasons. One, we have our own program, the Supported Employment Program. These are individuals that work on Microsoft campus. They are employed by vendors to Microsoft. They work in our kitchens and our yards and canteens, and they deliver incredible work. They are loyal, productive, and it has been a business benefit to Microsoft to have those employees on staff. They also raise the employee satisfaction holistically to have these individuals as part of our community.

This is business. We are paying people fair wage for work done. And, we do not believe in the act of subminimum wage to the point where we eliminated it from our supplier portfolio in 2019, and so we have also eliminated it from our suppliers holistically across all of Microsoft. We do not support any supplier with 14(c) certificates at this time. People with disabilities are talent, and we should pay talent the right and appropriate wage.

Senator HASSAN. Very well said. Thank you. And thank you, Madam Chair and to Mr. Kineavy and his supporter there. Thank you for speaking about the importance of technology. There is a long way to go. Thanks.

The CHAIR. Thank you.

Senator Kaine.

Senator Kaine. Thank you, Chair Murray and Ranking Member Burr, and thank you to our witnesses. This is a very important hearing, and the theme of many of your opening comments was that this is a time of peril, but also a time of some opportunity. A tight labor market means employers might be willing to kind of expand their normal practice in terms of who they hire. That is a good thing. And the availability of technologies can create bridges between employees and employers in new ways that could be, and that have shown promise for folks with disabilities.

Mr. Kineavy, I want to begin with you. Finding that first job is really important, but beyond getting the job, then there is the important question of your career trajectory. What can employers, public or private, do to help workers with disabilities once they get the job through promotions and mentoring and other strategies so that they have that kind of career trajectory that you said you want just like everybody else wants?

Mr. KINEAVY. Senator Kaine, this is critical to the topic of disability employment. One thing that I have learned from being in the workforce is that there is a striking difference between being a person with a disability who has a job and being a person with a disability that has a career.

When I was working at Rutgers, I saw a career path for me. I had the support of my superiors. My editor would sit with me and compare my first drafts of articles to the final drafts after he edited them to show me how I can constantly be improving. In other writing jobs I had, I was missing this mentorship and coaching component, and it led to me feeling stuck, as if I had no chance to move up the ranks.

I honestly think the idea that people with disabilities are looking for the next steps in their careers just does not register with a lot of mostly well-intentioned employers. In most forward-thinking companies, they already have their mentor or coaching systems in

place for minorities. The next step is to recognize people with disabilities in the same light as every other minority.

There is a saying that your executive team should look like your consumers. Well, people with disabilities are buying things, too. My answer is if you are a company with a structured mentoring system, all you have to do is include people with disabilities. Sit with them every 6 months or 1 year to go over their performance. If you hear of opportunities for advancement that fit their skill set, tell them about it and be their champion, even when they are not in the room.

If people with disabilities want a career track, they probably also want constructive criticism and clear directions on how to improve. You are not protecting our feelings by holding back valid critiques. If anything, you are stunting us professionally. Those people with disabilities who have this mentality are the ones you want in your company.

Senator KAINE. Thank you, Mr. Kineavy. And I agree so much with what you said about it is not just about employees who might have disabilities; it is about customers. And it is also about customers and employees who may be elderly because so many of the needs of an elderly population, accommodations in the width of doors, or the size of counters or workspaces, overlap with the needs of the large percentage of Americans who are elderly. And, so, a sensitive workplace is going to think not only about their employees, but the needs of their customers, and I am glad you brought that up.

This is a question generally for the panel, and it is a question I should know the answer to. I knew it in an earlier life. When I was Lieutenant Governor of Virginia, I was Chairman of the State's Disability Commission—by law, the LG plays that role—and we worked a lot on issues to try to expand opportunities for Virginians with disabilities. One that we found was a problem in the employment space was Medicaid.

Virginians with disabilities who are on Medicaid found the Medicaid benefit to be very, very important to them. They got a job with a company. The company had a health insurance policy, but it was not as good for them as the Medicaid was. They worked up to a certain number of hours, and then they had earned enough where their Medicaid benefit cutoff, and both the employer and the employee would say, well, gosh, this is my best employee. I would like him to work 40 hours a week, not 25. Or she—or, I am a fantastic employee. I want to work 40 hours, not 25. But, if I lose my Medicaid benefit because of excess earnings, I am sorry, I have to work part time.

We embarked on a pilot project in Virginia, and I think other States have done that, too, to allow a Medicaid buy-in whereby if you work past that income threshold, you can keep your Medicaid by paying into the Medicaid program. States have the options to make adjustments.

Is this Medicaid cliff still a barrier to employment for folks with disabilities?

Ms. LAY-FLURRIE. I will jump in with income limits, yes, do continue to be a problem.

If you take the instance of somebody who requires personal care assistants and support in the home in order to get ready for the day, to close the day, once you earn over a certain limit, there is no provision or service that will then provide that. That is left for your own private, personal funding, and those costs can be prohibitive. And, what that basically means is that it—you install a ceiling, a career ceiling that is very difficult to get beyond. And, so, it is a problem that needs some policy and addressed candidly. And, I think we are all agreed that career should not stop at the first job, and this is one instance where it can do that.

Senator KAINE. My time has expired and I will yield back. But, I would hope we might—we will work a little bit on this together because, though perfectly well-intentioned and well-motivated, this cliff actually locks people into part-time work when they are fully capable of being productive both for the employer and for themselves, and we might want to explore policy changes that we could make at the Federal level to try to ease that.

The CHAIR. Thank you very much, Senator Kaine. We really appreciate that.

Senator Smith.

Senator SMITH. Thank you, Chair Murray and Ranking Member Burr and all of the panelists for joining us here today.

I am really encouraged by this conversation. So many good ideas for the things that we can be doing going forward. And I think that we are hearing today that the pandemic has really spurred a lot of changes in the workplace and encouraged the widespread adoption of practices that are holding significant promise for people that are living with disabilities. More work to do, of course, but great ideas today.

I want to just talk a little bit about what we need to do to keep this progress going and fill in the gaps where we have them, not just to meet our minimum obligations, but to really think about creating truly inclusive workplaces.

Clearly, I appreciate the comments about how we need assistive technology, yes, but we need to make sure that technology is affordable, and rethinking how we can expand access to that technology.

Mr. Dennis, I appreciated your comments around the stigma of assertive technology and how we need to rethink what assistive technology means.

Dr. Schur, I really appreciated your comments about how the digital divide, which we are so aware of, what extra impact it has on people living with disabilities. So, I just really appreciate this conversation so much.

I want to go to Ms. Lay-Flurrie. You know, I appreciated very much hearing the work that Microsoft is doing on disability inclusion and reframing this as a strength and not a—kind of a—it is a strength for the company, as well as for the abled employees at the company.

I am really proud of the work—I want to focus on one thing. I am really proud of the work that the PACER Center in Minnesota is doing in this space. PACER hosts something called the Simon Technology Center, which is dedicated to making technology more accessible to children and adults with disabilities, and they are pro-

viding services of resources that help children and adults with a wide variety of disabilities use this technology to enhance their learning or their work or their personal independence. This technology is even being available—being made available to very young children, age birth to 5, under a program they have called the TIKES Project.

Ms. Lay-Flurrie, could you talk a little bit about this as we look forward? We have talked a lot about sort of what we have learned from the pandemic, but could you talk to us a little bit about what you anticipate going forward? And what do we have to look forward to when it comes to technology?

Ms. LAY-FLURRIE. Thank you so much for the question. I think when we look at the world of technology, we are in a sea-change moment, partly driven by the pandemic, but also a movement that was happening previous to that has been accelerated by everything that has occurred.

The cost of technology is coming down, the availability of accessibility features is moving within the box, and the ecosystem is growing to empower complex needs. What that basically means is, to give an example, we worked with—and continue to work with a great guy called Steve Gleason, an NFL player for the New Orleans Saints, who has ALS and is the CEO of a non-profit called Team Gleason.

When we met in 2014, his technology was around, and technology then for people with ALS, was around 15 to \$20,000. We have been able to work with him to reduce the cost of that technology and move many features within the core of the operating system.

Within Windows, there is now eye control. You can move a mouse with your eyes. There is also color blindness filters. There is all manner of good stuff if you want to check some of those out. These are features that were not there previously, and that did move the cost of the system to \$2,500 as opposed to 15 to 20.

We are seeing a basic sea change and a rapid innovation, and also driven by artificial intelligence, which is powering a lot of the automated captioning that you are seeing in systems today. We perceive and will continue to drive that movement forward and focus on affordability, but ease of access, ease of use, to promote people to really get into the world of accessibility.

Senator SMITH. Thank you so much. Mr. Dennis, I have a quick question for you. In making sure that youth with disabilities can get access to great career opportunities, employment opportunities, is so important so that people have the opportunity to build the lives that they want to live.

There are 15.1 million people of working age living with disabilities in the United States. And research shows that if companies would embrace inclusion, they would gain access to this incredible talent pool. This seems to me to be particularly important as we hear everywhere in our Country about a shortage of workers.

Could you just—I am a little—almost a little over time, but could you just talk a little bit about how this—important this is when we think about transitioning young people with disabilities into higher education or a career as they are leaving high school and how many do pay attention to that?

Mr. DENNIS. Absolutely. I will do my best to be brief.

One of the biggest things that matters with transition at any age from unemployment to employment is the idea of understanding where your opportunities lie. So, it is so important that we get in front of those youth at those transition ages and help them understand the employment opportunities that really lie before them, with or without disability status.

For those who experience disabilities, for companies that really want to be ahead of the curve, invite the community in. Let them learn about your job. You hear about all the great examples that Microsoft is doing. But, large or small, every organization can do this.

Touch base with your school district. Have those classes, special ed, what have you, come in, learn about the variety of jobs you have in your company from the top to those entry-level and learn—and also learn about—take those opportunities to learn about how you can make the day-to-day functionality of your company work better for individuals through assistive technology, through cultural initiatives, through outreach to a variety of communities.

But, absolutely, it is much easier to start your trajectory high and maintain that than to really try and jump in later points in life. But, it is so very, very imperative that we do connect with those youth to get them understanding what work is, what it can do, and again, those opportunities that exist within their communities.

Senator SMITH. Thank you so much. Thank you, Chair Murray. The CHAIR. Thank you.

Senator Rosen.

Senator ROSEN. Thank you, Chair Murray, Ranking Member Burr for holding this hearing, especially making it a bipartisan hearing. This is a topic we should all be able to discuss with experts who work together on, and so I really appreciate this so much.

I want to talk about access to technology. I know people have been talking about this. We have heard some today about how technology can allow individuals with disabilities to participate more fully in employment, but I would like to better understand how Federal investment and support can make sure that technology reaches every household that needs it, including low income and our rural areas.

Ms. Lay-Flurrie, from the perspective of a technology company, what are the barriers to getting newer technologies into the hands of people with disabilities, from disabled veterans to people living in our rural communities? And what solutions should Congress consider or partner with in order to get these technologies out for everyone?

Ms. LAY-FLURRIE. Thank you so much for a great question.

Yes, I do. I would love for every single American to have access to the technology they need in this modern-day society, and I do believe that policy does need to modernize to accept the reality of where technology is today, let alone where it is going.

I do want to acknowledge very clearly that in order to have full inclusion in society today, you need to be digitally connected, and that is a problem when we consider rural communities, and the

challenges of getting that connectivity combined with technology and all of the accessibility within those boxes, or additional assistive technology, that an individual may need. And, I think we need to recognize that as a problem and move policies toward it so that we can really work to tackle this. If people cannot access health websites, create doctor visits, it is—it can all be done online these days if you have the right technology in your hands. And I think that is the problems that we need to address.

Senator ROSEN. Well, thank you. I agree. Broadband deployment across our rural communities, underserved area, and the rural and State and local Workforce Programs together who are partnering with us can really ensure individuals have that access to technology.

I would like to move in the short time that I have left to talk about a community that needs to be discussed, which is our disabled veterans. Because we have heard from our witnesses today the COVID-19 pandemic has just caused high rates of unemployment not across the Nation, but especially for people with disabilities, and I would like specifically to talk about disabled veterans.

Nevada, of course, home to over 200,000 veterans, many of whom are disabled and who deserve to have access to equitable employment opportunities after sacrificing so much for our freedom.

One program addressing this at the Federal level is a Veteran Rapid Retraining Assistance Program. It was launched last year and it provides training to high-demand jobs for veterans who are unemployed as a result of the pandemic. Likewise, in Nevada, we have also had a number of efforts aimed at increasing employment opportunities for disabled veterans by providing training and opportunities, and encouraging our employers to hire more disabled veterans.

Dr. Schur, can you talk to us about your finding that people with disabilities face more difficulties in obtaining jobs specifically as it applies to disabled veterans?

Dr. SCHUR. Sure. There definitely are barriers. There are certain assumptions that employers make when someone applies for a job. We have been involved in a recent study that does find, however, that employers are sometimes more willing to hire someone with veteran status because they see this person as having served our Country and having certain skills that you get through the military.

We did a study where we sent resumes, some that had veteran status and some that did not, but were basically the same, and some that had disability status and some that did not, and found that being a veteran, having that experience, seemed to overcome that barrier to a large extent than having a disability did in terms of employer willingness to consider that person for a job.

I think that is a positive finding in terms of employment of veterans, but there is still a ways to go, clearly.

Senator ROSEN. Well, there certainly is, and I hope that we can continue this conversation to discuss how workforce programs, Federal, State and local, can really help our veterans, our rural communities, and our disability community to fill so many jobs out there and really become a better part of the fabric of our employment picture.

Thank you, Madam Chair.

The CHAIR. Thank you. And votes have been called, so Senator Burr, I will turn to you if you have any final comment.

Senator BURR. Madam Chairman, let me thank you for this hearing. And to our witnesses, you bring an incredible firsthand knowledge of the issues we are dealing with.

I have got to admit, Patty that I sat here thinking, what would this hearing have looked like 28 years ago when I came to Congress? I think many of the challenges that we talked about would be the same. I think what is so significantly different is technology has provided us an unlimited basket of opportunities for individuals with disabilities if we will define more clearly the pathways for people to access those.

We thank you all for the expertise you have brought and for the experience you have brought, and our hope—my hope is that collectively, we will find a way to refine those pathways, that individuals can journey toward that unlimited bucket of opportunities. Thank you.

The CHAIR. Thank you. Well stated. I appreciate that.

That will end our hearing today. I want to thank all of our colleagues, as well as our witnesses, for really a thoughtful conversation. So, thank you to Dr. Schur, Ms. Lay-Flurrie, Mr. Kineavy, and Mr. Dennis. We really appreciate your testimony and answers today.

By the way, for everyone who worked to make this hearing accessible, I really appreciate the work of all of you.

For any senators who wish to ask additional questions, questions for the record will be due in 10 business days, February 23d, at 5 p.m.

With that, the Committee stands adjourned.

ADDITIONAL MATERIAL

NATIONAL DEVELOPMENTAL DISABILITY NETWORK FOR PROGRAMS

On behalf of the three programs funded under the Developmental Disabilities Assistance and Bill of Rights Act (DD Act)¹, the Association of University Centers on Disabilities (AUCD), National Disability Rights Network (NDRN) and National Association of Councils on Developmental Disabilities (NACDD) submit the following Statement for the Record in advance of the hearing. For over 50 years, the central purpose of the DD Act has been to “assure that individuals with developmental disabilities and their families participate in the design of and have access to needed community services, individualized supports, and other forms of assistance that promote self-determination, independence, productivity, and integration and inclusion in all facets of community life, through culturally competent programs.”² The DD Act, and other Federal statutes, have been the driving force for people with developmental disabilities to have the opportunity to live and work in their communities as equal and full members.

¹ 42 U.S.C. § 15001 et seq.

² 42 U.S.C. § 15001(b)

Increasing opportunities for people with disabilities to obtain or maintain competitive integrated employment (CIE) has been a long standing and central priority for all of the DD Act partners. On behalf of the DD Act partners who are located in every state, territory, the District of Columbia, Puerto Rico, and U.S. territories (American Samoa, Guam, U.S. Virgin Islands, and the Northern Mariana Islands), we submit these comments and recommendations.

Legal Framework

Thirty years after passage of the Americans with Disabilities Act (ADA) the promise to remove barriers to employment for people with disabilities still remains to be achieved. People with disabilities continue to experience discrimination and numerous barriers to CIE. In 1990, Congress enacted the ADA “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.”³ Congress stated that the “Nation’s proper goals are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency” for people with disabilities.⁴

Congress recognized in the ADA, that society has “historically tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of deinstitutionalization against individuals with disabilities continue to be a serious and pervasive problem.”⁵ While Title I of the ADA addresses discrimination in employment by private employers, Title II of the ADA protects a “qualified individual with a disability from being “excluded from participation in or being denied the benefits of services, programs, or activities of a public entity”⁶ or being “subjected to discrimination by any such entity.”⁷ As directed by Congress, the Attorney General promulgated regulations necessary to implement Title II, including its integration mandate: “A public entity shall administer services, programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”⁸ Title II’s integration mandate reflects the recognition that “[i]ntegration is fundamental to the purposes of the Americans with Disabilities Act. Provision of segregated accommodations and services relegates people with disabilities to second-class status.”⁹

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA).¹⁰ One of the purposes of WIOA is “to increase, for individuals in the United States, particularly those individuals with barriers to employment, access to and opportunities for the employment, education, training, and support services they need to succeed in the labor market”.¹¹ Title IV of WIOA specifically fo-

³ 42 U.S.C. § 12101(b)(1).

⁴ 42 U.S.C. § 12101(a)(7).

⁵ 42 U.S.C. § 12101(a)(2).

⁶ 42 U.S.C. § 12132.

⁷ *Id.*

⁸ 28 C.F.R. § 35.130(d).

⁹ 28 C.F.R. Pt., App. B.

¹⁰ 29 U.S.C. § 3101 et. seq.

¹¹ 29 U.S.C. § 3101(1).

cuses on making amendments to the programs in the Rehabilitation Act of 1973 regarding the provision of employment services to people with disabilities. WIOA prioritizes CIE, where people with disabilities work in mainstream jobs alongside, and are paid comparable wages to, co-workers without disabilities. Despite the framework included in the ADA, the definition of CIE in WIOA recognizes two critical differences that make employment for people with disabilities different from most people without disabilities. Most people without disabilities go “to work” or “are employed”. The assumption for those people without disabilities is that they will be integrated when they go to work and will be paid a competitive wage. For many people with disabilities, this has not been the reality for them, hence the need to define CIE in WIOA.

Low expectations are among the most significant barriers for people with disabilities obtaining or maintaining CIE. While progress has been made, thirty years after the ADA many people with disabilities are still relegated to segregated employment and/or sub-minimum wage employment. Too many people with disabilities continue to be funneled into segregated and/or sub-minimum wage employment, frequently known as sheltered workshops, where they are isolated from co-workers without disabilities and broader society and are legally paid pennies on the dollar under Section 14(c) of the Fair Labor Standards Act (FLSA).¹²

Impact of the COVID-19 Pandemic on the Employment of People with Disabilities

The COVID-19 pandemic has further exacerbated the already existing barriers to people with disabilities maintaining or retaining CIE. The National Council on Disability (NCD) in the 2021 “Progress Report: The Impact of COVID-19 on People with Disabilities” submitted to Congress and the Administration focused on the impact of the pandemic on people with disabilities and concluded in regards to employment that “prior to the COVID-19 pandemic, nearly two-thirds of working-age Americans with disabilities were left out of the labor market altogether.¹³ Fewer than one-third of working-age people with disabilities had a job, compared to nearly three quarters of working-age people without disabilities.¹⁴ This employment gap of 40 or more points has remained steady for years.¹⁵ “The onset of the COVID-19 pandemic triggered a massive decline in employment, and the initial hit had a disproportionate impact on people with disabilities. By the end of April 2020, nearly 1 million people with disabilities lost their jobs, representing about 20 percent of working people with disabilities. By comparison, 14 percent of people without disabilities lost their jobs.”¹⁶ Two years into the pandemic, as of January 2022, the employment participation rate of people with disabilities is 37.5 percent compared

¹² 29 U.S.C. §214(c)

¹³ National Council on Disability (NCD). (2021). The Impact of COVID-19 on People with Disabilities. <https://ncd.gov/sites/default/files/NCD-COVID-19-Progress-Report-508.pdf>.

¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

to 76.4 percent for people without disabilities.¹⁷ Furthermore, people without disabilities are entering the workforce at a quicker rate than people with disabilities. From January 2021 to January 2022, the labor force participation rate for people with disabilities has only increased by 9 percent compared to 4.7 percent for people without disabilities.¹⁸

People with Disabilities in America (p. 12). Institute on Disability (IOD) at the University of New Hampshire (UNH). <https://disabilitycompendium.org/>

Significant Barriers and Recommendations

It is within this research and legal framework that the DD Act partners identify the following five areas as some of the most significant barriers to CIE for people with disabilities and offer some possible policy solutions that we believe the Committee should consider immediately implementing to address these barriers. The DD Act partners are also supportive of the recommendations included in Chapter 5 on COVID and Employment in the 2021 Progress Report: The Impact of COVID–19 on People with Disabilities.¹⁹

Barrier 1: Implementing and Fully Funding the Individuals with Disabilities Education Act

When Congress passed the Education for All Handicapped Children Act, now known as the Individuals with Education Act (IDEA), it promised that the Federal Government would pay 40 percent of the average cost to educate a student with disabilities. Later, Congress amended the law to promise that the Federal Government would pay a “maximum” of 40 percent. Congress has never lived up to this promise creating a significant barrier to students with disabilities receiving a “free and appropriate public education” and obtaining a high-school diploma. In 2019, 16.4 percent of young adults with disabilities had not attained a high school diploma, compared to 7.3 percent of their peers without disabilities, reflecting a gap of 9.0 percentage points.²⁰ Not receiving a high-school diploma limits the jobs that students with disabilities are qualified for and creates a significant barrier to obtaining CIE.

Recommendations

Congress should immediately pass the IDEA Full Funding Act and fully fund the Individuals with Disabilities Education Act (H.R. 5984/S. 3213)

Barrier 2: Decoupling Public Benefits

Many people with disabilities rely on Supplemental Security Income (SSI) for income and Medicaid to obtain healthcare including

¹⁷ Kessler Foundation. (2022, February 4). nTIDE January 2022 Jobs Report: People with disabilities build on job gains to break historic records. <https://kesslerfoundation.org/press-release/nTIDE-January-2022-Jobs-Report>.

¹⁸ Id.

¹⁹ Supra, note. 13.

²⁰ Rehabilitation Research and Training Center on Disability Statistics and Demographics. (2020). 2020 Annual Report on People with Disabilities in America (p. 12). Institute on Disability (IOD) at the University of New Hampshire (UNH). <https://disabilitycompendium.org/>

long-term services and supports (LTSS). These programs are means-tested. By these programs being means-tested, people with disabilities are forced to live in poverty to get these critical supports to live in the community. These critical benefits are often essential to avoiding unnecessary institutionalization and potentially death. By having federally imposed restrictions related to income and assets, many people with disabilities do not pursue CIE because they are essentially put in the position of deciding between working or losing these benefits. As long as the maintenance of publicly funded benefits such as SSI and Medicaid are contingent upon the maintenance of a low-income and assets, it will continue to be incredibly difficult to incentivize people with disabilities to seek better employment with higher wages in CIE.

Recommendations

Congress should immediately pass the Supplemental Security Income Restoration Act (H.R. 3763/S. 2065)

Congress should pass legislation to decouple eligibility for Medicaid and Medicare from eligibility for cash benefits. The legislation should allow people with disabilities covered by Medicaid and/or Medicare through the SSI and SSDI programs to work and to retain their existing healthcare coverage permanently, without cost to the individual and without any complex paperwork.²¹

Barrier 3: Repeal Section 14(c) of the Fair Labor Standards Act

Section 14(c) of the Fair Labor Standards Act permits employers to pay some people with disabilities less than the minimum wage.²² This program is incompatible with the goals of the ADA and WIOA. By maintaining section 14(c), Congress is endorsing the perpetuation of a life of poverty and dependency for people with disabilities who are paid sub-minimum wages. The continued existence of this program creates a significant barrier to CIE by holding some people with disabilities to the lowest expectations as to their ability to work in CIE. Employers need to be supported to transition their models from segregated sub-minimum wage employment to one that supports CIE.

Recommendations

Congress should immediately pass the Transformation to Competitive Integrated Employment Act (H.R. 2373/S. 3238)

Barrier 4: Providing Reasonable Accommodations

Title I of the ADA states that employers of more than 15 employees will not “discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of em-

²¹ Supra note 13.

²² 29 U.S.C. § 201 et seq.

ployment.”²³ An employee with a disability is considered qualified if they can perform the essential functions of the job with or without reasonable accommodations.²⁴

While the ADA provides for reasonable accommodations, obtaining accommodations and related enforcement of the ADA continues to be a barrier to CIE. Human resource professionals continue to lack knowledge about how to provide and the costs for providing reasonable accommodations as well as the impact of accommodations on the development of trust and the ability of workers with disabilities to meet expectations of productivity.²⁵ Additionally, we have heard anecdotally that employers believe that they must hire people with disabilities who would otherwise be unqualified for the job and that people with disabilities cannot be terminated for cause for fear that it could trigger a lawsuit. Clearly this is untrue. This misunderstanding of the ADA almost undoubtedly prejudices employers against hiring people with disabilities. Furthermore, the COVID-19 pandemic has increased the need for reasonable accommodations as many workers have transitioned to telework and/or flexible work schedules. This underscores the need for both more education about the ADA and reasonable accommodations, and improved enforcement of the ADA.

Recommendations

The government should prioritize enforcement of the ADA and Sections 501 and 503 of the Rehabilitation Act to ensure that workers with disabilities receive reasonable accommodations needed to obtain or maintain CIE.

The Federal Government should issue guidance on effective telework tools and highlight the benefit of telework for many people with disabilities.

Congress should pass the Disability Employment Incentive Act (H.R. 3765/S. 630)

Barrier 5: Improving School to Work Transition and Vocational Rehabilitation

School to college or work transition is critical for students to obtain CIE. The Higher Education Opportunity Act’s Transition and Postsecondary Programs for Students with Intellectual Disabilities (TPSID) programs provide students with disabilities the opportunity for post-secondary education and the opportunity to gain the skills needed for CIE. Another avenue for students with disabilities to gain the skills need for CIE is through apprenticeships. Furthermore, WIOA requires vocational rehabilitation (VR) to spend 15 percent of their annual budget on supporting the provision of pre-employment transition services (pre-ETS) for youth and young

²³ 42 U.S.C. § 12112(1).

²⁴ 42 U.S.C. § 12112(8).

²⁵ Disability Employment TA Center. (2021). Transforming Networks through Systems Change, Innovation, and Collaboration. <https://aoddisabilityemploymentcenter.com/wp-content/uploads/2021/05/AoD-TA-Center-Landscape-Assessment-Final-without-Appendices-4.30.2021-508.pdf>

adults with disabilities.²⁶ However, there is evidence to suggest that VR does not consider pre-ETS a priority or focus and many VR programs continue to unilaterally decline support for students in TPSID programs despite Federal guidance to the contrary.²⁷ Additionally, anecdotal evidence suggests that some educators and transition counselors stress the importance of applying for Social Security as soon as possible rather than focusing on post-secondary education, vocation training or job development.²⁸

Recommendations

Congress should conduct an oversight investigation to do a study to understand why VR is not focusing efforts on pre-ETS or require the GAO to do a study.

Congress should increase funding for other programs that interact closely with VR such as the Client Assistance Program.

Congress should pass the National Apprenticeship Act (H.R. 447)

Congress should provide additional funding to expand the TPSID program.

NATIONAL DISABILITY RIGHTS NETWORK

NDRN is the non-profit membership association of Protection and Advocacy (P&A) and Client Assistance Program (CAP) agencies that are located in all 50 States, the District of Columbia, Puerto Rico, and the United States territories. In addition, there is a P&A and CAP affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. Employment of people with disabilities as before the pandemic, and now after as the economy recovers, is one of the top priorities for P&A and CAP network.

Federal Policies Impacting Employment of People with Disabilities

Increasing employment opportunities and breaking down barriers to employment for people with disabilities has been a long held goal for the disability community as a whole. In 1990, Congress enacted the Americans with Disabilities Act (ADA) which provides a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.. 42 U.S.C. § 12101(b)(1). This landmark civil rights statute also makes clear that not only should people with disabilities be free from discrimination in the ongoings of their daily life, but also in workplace. In the Findings and Purpose section of the ADA, Congress pays particular attention to the issue of the employment of people with disabilities:

²⁶ 29 U.S.C. § 730(d)(1)

²⁷ Supra note 25.

²⁸ Id.

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication and access to public services (7) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals 42 U.S.C. § 12101(a).

In the Findings and Purpose section of the ADA, Congress demonstrated its concern for the employment and economic self-sufficiency that comes with employment of people with disabilities and expressed a heightened concern that people with disabilities are improperly segregated in our society. 42 U.S.C. § 101(a)(2), (3), (5) and (7).

Additionally, the Workforce Innovation and Opportunity Act (WIOA) of 2014 prioritizes competitive integrated employment (CIE), where people with disabilities work in mainstream jobs alongside, and are paid comparable wages to, co-workers without disabilities.

There is a clear statutory, legal and policy foundation for focusing on the employment of people with disabilities. Unfortunately, while stride have been made, practically speaking the ultimate goal of full participation, independent living, and economic self-sufficiency for such individuals has yet to be realized. Unfortunately, the employment rate for people with disabilities continues to be lower when compared to people without disabilities. Too many people with disabilities continue to be funneled into segregated sheltered workshops, where they are isolated from co-workers without disabilities and broader society and are legally paid pennies on the dollar under Section 14(c) of the Fair Labor Standards Act (FLSA).

Below, we outline from our perspective barriers to the employment of people with disabilities and potential policy solutions we believe the Committee should consider in order to address this problem.

Public Benefits as Barriers to Employment

Despite their good intentions, several long-standing Federal policies impacting people with disabilities actually serve as a barrier to employment or disincentivize full employment for people with disabilities. Eligibility limits for publicly funded Federal programs tied to means testing present a significant barrier to employment of people with disabilities particularly in CIE. A number of individuals with disabilities rely on Social Security and Medicaid to obtain long-term services and supports (LTSS) critical to living independently and maintaining health care coverage such as Medicaid.¹ These critical benefits are often essential to avoiding unnecessary institutionalization and potentially death. Most individuals with disabilities who come to rely on these services do not have the assets or income required to take on such medical expenses.¹

¹ MPRESSED Media. (2021, December 21). RESOURCES FOR AoD GRANTEEES. Disability Employment TA Center. <https://aoddisabilityemploymenttcenter.com/resources-for-aod-grantees/>; <https://aoddisabilityemploymenttcenter.com/wp-content/uploads/2021/05/AoD-TA-Center-Landscape-Assessment-Final-without-Appendices-4.30.2021-508.pdf> and

These federally imposed restrictions related to income and assets serve as a major barrier for individuals with disabilities from pursuing employment because they are essentially put in the position of deciding between working up to preferred optimal hours, or accepting higher wages or putting access to publicly funded services at risk.¹ As long as the maintenance of publicly funded benefits such as Supplemental Security Income and Medicaid are contingent upon the maintenance of a low-income and assets, it will continue to be incredibly difficult to incentive people disabilities to seek better employment with higher wages in a CIE environment.

Recommendations:

- Congress should pass the Supplemental Security Income Restoration Act.²
- Pass legislation to decouple eligibility for Medicaid and Medicare from eligibility for cash benefits. The legislation should allow people with disabilities covered by Medicaid and/ or Medicare through the SSI and Social Security Disability Insurance (SSDI) programs to work and to retain their existing healthcare coverage permanently, without cost to the individual and without any complex paperwork.³

Section 14(c) of the Fair Labor Standards Act

Section 14(c) of the Fair Labor Standards Act is a provision that permits employers to pay some people with disabilities even less than the minimum wage. The continuance of this program greatly threatens the ability for all people with disabilities to work in an CIE environment. Section 14(c) is incompatible with both (ADA), which establishes economic self-sufficiency for people with disabilities as a goal, and WIOA which priorities competitive integrated employment, where people with disabilities work in mainstream jobs alongside, and are paid comparable wages to, co-workers without disabilities. By maintaining section 14(c), the Federal Government is doing nothing more than endorsing the perpetuation of a life of poverty and dependency for people with disabilities who are paid sub-minimum wages.

The evidence over the years has shown that full employment of people with disabilities is not only possible but probable if high expectations are set and individuals are provided the supports and services they need. We cannot assume that classes of people, including those with even the most significant disabilities, are incapable of participating in full, competitive, and integrated employment.

<https://aaddisabilityemploymentcenter.com/wp-content/uploads/2021/05/AoD-TA-Center-Landscape-Assessment-Appendices-PA-4.30.21-508.pdf>

² *Brown Leads Senators in Introducing Historic Legislation to Update Long-Neglected Social Security Program to Ensure Older Adults & People with Disabilities are No Longer Trapped in Poverty—U.S. Senator Sherrod Brown of Ohio.* (2021, June 16). Sherrod Brown. <https://www.brown.senate.gov/newsroom/press/release/social-security-program-update>

³ *2021 Progress Report: The Impact of COVID-19 on People with.* (2021, October 29). National Council on Disability. <https://ncd.gov/progressreport/2021/2021-progress-report>

Recommendations

- Congress should pass the Transformation to Competitive Integrated Employment Act (H.R. 2373/S. 3238).

Job Accommodations

Under the ADA, employees with disabilities who are qualified for the job may request reasonable accommodations from their employer in order to perform the essential functions of that job and enjoy equal employment opportunities. While the ADA provides for reasonable accommodations, obtaining accommodations and related enforcement of the ADA remain a barrier to employment for people with disabilities. Human resource professionals continue to lack knowledge about expenses for providing legally protected accommodations as well as the impact of accommodations on the development of trust and the ability of workers with disabilities to meet productivity expectations.

Additionally, we have heard anecdotally that employers believe that they must hire people with disabilities who would otherwise be unqualified for the job and that people with disabilities cannot be terminated for cause for fear that it could trigger a lawsuit. This misunderstanding of the ADA and reasonable accommodations almost undoubtedly prejudices employers against hiring people with disabilities. Examples of reasonable accommodations NDRN has recommended include a more flexible work schedule, time off for medical appointments and therapy, and a quieter work environment.⁴

The COVID-19 pandemic has increased the prevalence of accommodations as many workers have transitioned to telework and/or flexible work schedules. This underscores the need for both more education about the ADA and reasonable accommodations among employers and enforcement of the ADA in the workplace.

Recommendations

- The Federal Government should prioritize enforcement of the Americans with Disabilities Act and Sections 501 and 503 of the Rehabilitation Act to ensure that workers with disabilities receive reasonable accommodations needed to secure or maintain employment, including accommodations needed due to the pandemic.
- The Federal Government should Issue guidance on effective telework tools and highlight the benefit of telework for many people with disabilities.

Vocational Rehabilitation and Education of Students with Disabilities

Some people with disabilities face barriers to employment beginning when they are students. Unfortunately, the systems in place to assist students with disabilities obtain meaningful and long-

⁴ Blum, D. (2021, September 6). Feeling Anxious About Returning to the Office? Here's What You Can Do. The New York Times. <https://www.nytimes.com/2021/08/25/well/mind/return-to-office-anxiety.html>

term employment in a CIE setting do not function as intended. The consequence of this is that students with disabilities can get funneled into segregated employment and/or public benefits after which it can become harder to transition to CIE.

For example, under WIOA, Vocational Rehabilitation (VR) Systems are required to spend 15 percent of their annual budgets on supporting the provision of pre-employment transition services (pre-ETS) for youth and young adults with disabilities. However, there is evidence to suggest that VR systems do not consider pre-ETS is not a priority or focus for VR.

Additionally, we have heard that some educators and transition counselors stress the importance of applying for Social Security as soon as possible rather than focusing on post-secondary education, vocation training or job development.¹ The underlying message here being that the student will need Social Security benefits immediately and over the long-terms because they are not able to pursue a career and become financially independent.¹ Students without disabilities, however, are supported in exploring career pathways and post-secondary options throughout school.

Recommendations

- The Federal Government should conduct oversight to better understand why VR is not focusing efforts on pre-ETS.
- The Federal Government should increase funding for other programs that interact closely with VR such as the Client Assistance Program.

[Whereupon, at 11:43 a.m., the hearing was adjourned.]

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