# Frequently Asked Questions on the

# Transitioning to Integrated and Meaningful Employment (TIME) Act

## [What basic information do I need to know about the Transitioning to Integrated and Meaningful Employment Act?](#_Q:_What_basic)

## [I think some people really are too disabled to earn the minimum wage. What about people with the most significant disabilities?](#_Q:_I_think)

## [Does paying people with disabilities subminimum wages prepare them for competitive integrated employment?](#_Q:_Does_paying)

## [What is an alternate method for employing people with disabilities and what would a successful transition look like?](#_Q:_What_is)

## [Will 14(c) certificate holding entities have to shut down if the TIME Act passes?](#_Q:_Will_14(c))

## [Some certificate holders claim that they will be forced to fire workers if this bill is passed. What is your response?](#_Q:_Some_certificate)

## [Who opposes the TIME Act?](#_Q:_Who_opposes)

## [Have there been other steps taken to stop the payment of subminimum wages to individuals with disabilities?](#_Q:_Have_there)

## [Have states demonstrated that Section 14(c) is unnecessary to provide employment services to people with disabilities?](#_Q:_Have_states)

## [Are there any differences between HR 188 and S 2001?](#_Q:_Are_there)

## [How can I learn more about the Transitioning to Integrated and Meaningful Employment Act?](#_Q:_How_can)

## Q: What basic information do I need to know about the Transitioning to Integrated and Meaningful Employment Act?

A: The Transitioning to Integrated and Meaningful Employment Act, or TIME Act, will responsibly phase out Section 14(c) of the Fair Labor Standards Act (FLSA) over a three year period. Congressman Gregg Harper (R-MS) sponsored the TIME Act in the House of Representatives (HR 188) in January 2015, and Senator Kelly Ayotte (R-NH) sponsored the TIME Act in the Senate (S 2001) in August 2015. In both chambers, the bill is bipartisan; as of December 31, 2015, HR 188 had over fifty cosponsors and S 2001 had one cosponsor.

## Q: I think some people really are too disabled to earn the minimum wage. What about people with the most significant disabilities?

A: There are many people with significant disabilities who are already employed in competitive, integrated settings.

For example, Joan used to work in a sheltered workshop where she was paid less than the minimum wage. Now she works at the Montgomery County Department of Liquor Control as a data entry assistant.\* She works about eighteen hours a week, and she performs jobs that she does well, such as data entry and preparing documents to be scanned (by removing staples, for example). Joan is just one of many people who have found customized employment jobs through internships and the creativity of customized and supported employment specialists.

Other stories involve individuals who may not be able to read, write, speak, or walk, but have the capability to perform meaningful work with proper accommodations. One such individual delivered the mail for a big organization by matching shapes and colors. If a red triangle represented Mr. Jones, a red triangle would appear on a box full of Mr. Jones’s mail and his desk. The individual with a disability had to move the box from the mailroom to the office. In the process he saved the mailroom operators’ time.

\*<http://www.hdi.uky.edu/setp/materials/vignette_v3_blue_508_FINAL.pdf>

For even more stories, visit: <http://www.realworkstories.org/browse-all-stories>.

## Q: Does paying people with disabilities subminimum wages prepare them for competitive integrated employment?

A: The minimum wage exemption does nothing to help people with disabilities obtain employment. It does the opposite. According to a Government Accountability Office (GAO) report, 95% of individuals with disabilities who enter subminimum wage environments never obtain the competitive integrated employment they strive for.\*

\*http://www.gao.gov/assets/140/135187.pdf.

## Q: What is an alternate method for employing people with disabilities and what would a successful transition look like?

A: At least one employment program that allows even those with the most significant disabilities to achieve competitive employment—earning at least the minimum wage—is already functioning in almost every state in the nation. Examples of such programs include EmploymentFirst, supported employment, and customized employment. These programs focus on matching a worker’s skills and abilities to a job, rather than simply placing a worker in a predetermined manufacturing position regardless of his or her ability to perform such work.

## Q: Will 14(c) certificate holding entities have to shut down if the TIME Act passes?

A: No. These entities have three full years to transition their business model from one that relies on a 14(c) certificate to one that provides appropriate training for people with disabilities so they can transition into integrated and meaningful employment. People with disabilities can continue to go to the same place every day if they so choose. In one instance, a sheltered workshop chose to close gradually. It remained a place where people with disabilities could meet for lunch so they could continue to have the social interactions they enjoyed.\* As the individuals with disabilities became accustomed to their new work environments, the need for the sheltered workshop became obsolete and the staff at the workshop could instead focus on being job coaches and/or helping new clients obtain jobs in competitive, integrated environments.

\*Dague, Bryan, “Sheltered Employment, Sheltered Lives: Family Perspectives on Conversion to Community-based Employment,” *Journal on Vocational Rehabilitation* 37 (2012): 1-11.

## Q: Some certificate holders claim that they will be forced to fire workers if this bill is passed. What is your response?

A: First, many employers of people with disabilities, including nonprofits that hold or have held special wage certificates, have already changed their policies to pay their workers the federal or state minimum wage or higher. These entities are still operating and in fact thriving. For example, almost one hundred of the 165 Goodwill-affiliated agencies state they do not pay their workers with disabilities less than the federal minimum wage.\* Moreover, National Industries for the Blind (NIB) adopted an official policy to pay workers at least the federal minimum wage, and none of NIB’s facilities have gone out of business as a result. In fact, NIB now supports the TIME Act.

Second, the Transitioning to Integrated and Meaningful Employment Act provides a three-year period for nonprofits to phase out the payment of subminimum wages. No agency will be immediately required to pay its workers higher wages, and thus face a potential shortage of funds, on passage of this legislation. Three years is plenty of time for these entities to use creative strategies and implement reasonable accommodations to help their clients obtain meaningful employment.

Finally, many of these nonprofits receive lucrative federal contracts and generous philanthropic donations. A 2001 GAO report found that almost half of the funding for sheltered workshops came from grants and reimbursements to cover support costs. In some cases these operations are so flush with cash that their executives make six-figure salaries while they claim that they cannot afford to pay their disabled workers more than pennies per hour.

\* <http://www.goodwill.org/press-releases/goodwill%C3%82%C2%AE-believes-in-the-power-of-work-for-all-individuals/>

## Q: Who opposes the TIME Act?

A: Only Section 14(c)-certificate-holding entities that refuse to use contemporary strategies to employ people with disabilities oppose the TIME Act. Virtually all national consumer disability organizations (those that are primarily run by people with disabilities) join us in our effort to repeal Section 14(c) of the FLSA. Organizations that provide rehabilitation services to disabled persons, as well as employers of people with disabilities, also support this initiative. In total, over eighty organizations support the TIME Act.\*

\*https://nfb.org/images/nfb/documents/word/opposition\_list\_section\_14c\_20150114.doc.

## Q: Have there been other steps taken to stop the payment of subminimum wages to individuals with disabilities?

A: Yes, the Department of Justice stepped in to stop the payment of subminimum wages to individuals with disabilities from the state of Rhode Island. It was found that the state of Rhode Island relied on segregated work settings (sheltered workshops) too often, and as a result, over three thousand Rhode Islanders will be receiving the supported employment services they need.\* Seven hundred of those individuals will be leaving sheltered workshops.

Likewise, in September 2015 the State of Oregon entered into a settlement agreement with the Department of Justice. Rather than helping Oregonians with disabilities find competitive integrated employment, hundreds of individuals a year were placed in sheltered workshops. The settlement agreement declared that the State of Oregon will help over 1,100 individuals with disabilities find competitive, integrated employment over the next seven years.\*\*

Additionally, the Workforce Innovation and Opportunity Act required an advisory committee to be formed with the task of offering policy suggestions to increase competitive, integrated employment for individuals with disabilities. In September 2015 their interim report recommended that Section 14(c) of the Fair Labor Standards Act should be responsibly phased out.\*\*\*

Likewise, in August 2012, the National Council on Disability, an independent federal agency charged with advising the President, Congress, and other federal agencies regarding policies that affect people with disabilities, also recommended the responsible phase-out of Section 14(c) in their report on subminimum wages and supported employment.\*\*\*\*

Ultimately, since Section 14(c) was enacted into law by Congress, only Congress can responsibly phase out and repeal Section 14(c) altogether.

\* <http://www.ada.gov/olmstead/olmstead_cases_list2.htm#ri-state>

\*\* <http://www.justice.gov/opa/pr/justice-department-reaches-proposed-ada-settlement-agreement-oregons-developmental>

\*\*\* <http://www.dol.gov/odep/pdf/20150808.pdf>

\*\*\*\* <https://www.ncd.gov/rawmedia_repository/FINAL_Subminimum%20Wage%20Report%20with%20Transmittal%20Letter.pdf>

## Q: Have states demonstrated that Section 14(c) is unnecessary to provide employment services to people with disabilities?

A: Yes. The state of Vermont eliminated the practice of paying people with disabilities subminimum wages altogether in 2002. Vermont now has the highest employment rate of people with disabilities in integrated settings.\* In May 2015 the New Hampshire General Court passed and Governor Hassan signed a bill which makes it illegal for employers to pay New Hampshire workers with disabilities subminimum wages.

\*<http://publicsource.org/investigations/vermont-closed-workshops-for-people-with-disabilities-what-happened-next#.VLQ0V9LF8fY>

## Q: Are there any differences between HR 188 and S 2001?

A: There are a few very slight differences between the bills, but ultimately, they will accomplish the same goal. Both bills will responsibly phase out Section 14(c) of the Fair Labor Standards Act over a three year period. The only difference is HR 188 has a tiered transition method (for-profits have one year to transition, government entities have two years, and nonprofits have three years) and the Senate version gives all entities three full years to make the transition. Another slight change involves the findings, which have no implications on what the bill will accomplish. As a result of updating S 2001’s findings, the National Industries for the Blind wrote a letter of support for S 2001.

## Q: How can I learn more about the Transitioning to Integrated and Meaningful Employment Act?

A: Visit <http://www.nfb.org/TIME>, or search for the hash tag #TIMEact on Twitter.