TIME to act on real employment for people with disabilities

Tom Ridge

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In 1990, Congress passed and President George H.W. Bush signed into law the historic Americans with Disabilities Act (ADA). I have always supported the ADA and other laws designed to increase the participation of Americans with disabilities in our society because I believe that these Americans, like all other Americans, should have the opportunity to pursue the American dream. The ADA sought to achieve this goal by bringing Americans with disabilities out of the shadows and allowing them to compete on a level playing field with their non-disabled peers. The law was also intended to combat the discrimination, born of misconceptions, stereotypes and paternalism, that Americans with disabilities face every day.

More than 25 years after its passage, the ADA has at last begun to accomplish many of its goals. But policies remain that undermine the vision of fairness and equal opportunity enshrined in this landmark law.

One of those policies is buried in the Fair Labor Standards Act, passed in 1938. While that law created better wages and working conditions for most Americans, it contained a provision that excluded people with disabilities from its protections, especially the minimum wage. Nearly 80 years later, the law still contains that provision, known as Section 14(c).

The provision allows employers who hold special wage certificates issued by the Department of Labor to pay workers with disabilities a “commensurate wage” that, generally, is less than the federal or state minimum wage. Some people working under special wage certificates earn mere pennies per hour.

Back in 1938, everyone assumed that a worker with a disability was less productive than a “normal” or “able-bodied” worker. Today, we know that workers with disabilities, given equal opportunity and appropriate tools or technologies, can perform as well as their non-disabled counterparts. Just ask employers like Lowe’s or Starbucks, outstanding companies that have partnered with the National Organization on Disability to find job opportunities for talented men and women with disabilities, and they’ll confirm this to be true. But despite that knowledge, Section 14(c) remains in force.

Some argue that the “commensurate” or subminimum wage is necessary to provide employment for some people with severe disabilities and that merely giving these individuals something to do each day provides them with dignity and pride. This argument does not make sense to me. Americans with disabilities want the things that all other Americans want: homes, families and the freedom to do with their lives as they wish. They cannot have any of those things on pennies per hour. If an American with a disability can’t even buy a meal with his or her paycheck, he or she is likely to feel demeaned and insulted rather than dignified and proud.

This system sends the message to Americans with disabilities that they are not worth the same as other Americans, that society values them less. It traps them in tedious jobs with no prospect of advancement. Finally, it leaves them in poverty, dependent for survival on overburdened federal benefit programs like Social Security Disability Insurance. Some of these Americans remain in the care of family members, but what happens when those family members are gone? Other safety net programs must then fill the gap.

The subject of the minimum wage is a hotly debated matter. Much has been said about whether it should be raised and to what level. But that question has no bearing on the plight of workers with disabilities who are currently not receiving it. Receiving the minimum wage, at whatever level it is set, is a matter of basic fairness. In 2016, there is no excuse for treating an entire class of workers differently from others based solely on the characteristic of disability. Such treatment is discriminatory, just as it would be if applied to individuals of a specific race, gender or religious affiliation.

I support legislation filed in the House of Representatives by Rep. Gregg Harper (R-Miss.) and in the Senate by Sen. Kelly Ayotte (R-N.H.) that would phase out the Section 14(c) program. This legislation, the Transitioning to Integrated and Meaningful Employment (TIME) Act, would rightly refocus efforts to employ Americans with disabilities on helping them train for and find jobs in the mainstream economy. This is not an impossible goal; Ayotte’s home state of New Hampshire has already eliminated subminimum wages without adverse consequences for workers with disabilities, as has the state of Vermont.

Much work needs to be done to give all Americans, including those who have disabilities, a chance to have the financial freedom and security we all desire. Repealing Section 14(c) is an easy step that we can take right now to move closer to that goal. I urge the House and Senate to pass the TIME Act with all deliberate speed. It is long past time to take this fair, commonsense step in the march to freedom for Americans with disabilities.