

**UNITED STATES COMMISSION ON CIVIL RIGHTS**

Public Meeting          In Re:

Subminimum Wages for People          With Disabilities

Hosted By:

**THE ARIZONA ADVISORY COMMITTEE**

to the

**U.S. COMMISSION ON CIVIL RIGHTS**

Sandra Day O'Connor College of Law  
Room 544  
111 East Taylor Street  
Phoenix, Arizona  
October 18, 2019  
9:34 a.m.

**REPORTED BY:**

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Certified Reporter  
Certificate No. 50360

**PREPARED FOR:**  
U.S. Commission  
On Civil Rights

**(Original)**



**G R I F F I N   G R O U P**  
**I N T E R N A T I O N A L**  
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ARIZONA ADVISORY COMMITTEE MEMBERS:

- LORENA C. VAN ASSCHE, Madame Chair.
- REBEKAH BROWDER
- PATTY A. FERGUSON-BOHNEE
- MELISSA S. HO
- DAVID D. KIM
- THERESA C. RASSAS
- BEVERLY TRAVER
- ERIC D. YORDY

P R O C E E D I N G S

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3 MADAME CHAIR VAN ASSCHE: This meeting of  
4 the Arizona Advisory Committee to the U.S. Commission on  
5 Civil Rights shall come to order.

6 For the benefit of those in the audience, I  
7 shall introduce my colleagues and myself. My name is  
8 Lorena Van Assche and I am the chair of the committee, and  
9 our members of the committee will introduce themselves. I  
10 will start to my right with Mr. Kim.

11 MR. KIM: David Kim.

12 MS. HO: Melissa Ho.

13 MR. YORDY: Eric Yordy.

14 MS. FERGUSON-BOHNEE: Patty Ferguson-Bohnee.

15 MS. RASSES: Good morning. Theresa Rassel.

16 MS. BROWDER: Good morning. Rebekah  
17 Browder.

18 MADAME CHAIR VAN ASSCHE: We will note we  
19 have a quorum present. Also present are U.S. Commission  
20 on Civil Rights staff. David Barreras is a civil rights  
21 analyst and is the designated federal officer for this  
22 meeting. Also in attendance is Carolyn Allen, support  
23 specialist.

24 Please note that the federal officer has the  
25 authority to terminate these proceedings if, in his

1 judgment, it is in the public's best interest to do so.

2           The U.S. Commission on Civil Rights is an  
3 independent bipartisan agency of the federal government  
4 charged with studying discrimination or denial of equal  
5 protection of the laws based on race, color, religion,  
6 sex, age, disability or national origin or in the  
7 administration of justice.

8           In each of the 50 states and the District of  
9 Columbia, an advisory committee to the U.S. Commission has  
10 been established and they are made up of bipartisan  
11 persons who serve without compensation to advise the  
12 Commission on relevant information concerning their  
13 respective state.

14           At today's meeting, it is our purpose to  
15 hear testimony to examine the operation of the Section  
16 14(c) waiver program in Arizona. The committee will  
17 explore employee's work experiences, their ability to  
18 register complaints and existing possibilities for them to  
19 secure competitive employment, as well as any abuses that  
20 have occurred because of ineffective monitoring.

21           The committee also will consider the social  
22 and economic effects of employers paying less than minimum  
23 wage to people with disabilities.

24           Testimony heard at today's briefing will  
25 result in an advisory memorandum that will be shared with

1 the U.S. Commission on Civil Rights and will be included  
2 in their 2020 statutory enforcement report examining  
3 subminimum wages for people with disabilities.

4 Please note if speakers begin to veer away  
5 from the civil rights questions at hand or go off topic, I  
6 will interrupt you to ask you to return to the topic.

7 At the outset, I want to remind everyone at  
8 this meeting that this meeting is being transcribed by our  
9 court reporter for a public record. I ask that you please  
10 state your name when speaking. It is essential that we  
11 have a clear and accurate record of these proceedings, so  
12 I ask everyone to please speak clearly into the microphone  
13 and be mindful of your speed.

14 Today we have a schedule of five panels  
15 composed of diverse panelists who will share with us their  
16 expertise at this meeting, and I ask that you give them  
17 your undivided attention.

18 I would like to present the ground rules for  
19 today's meeting. This is a public meeting open to the  
20 media and the general public. We have a full schedule of  
21 people who will be providing testimony within the limited  
22 time available. This will include a presentation by each  
23 panelist of approximately 10 to 12 minutes, unless invited  
24 to speak longer.

25 After all panelists have concluded their

1 statements, committee members will engage them in  
2 questions and answers. Panelists please see that I will  
3 be holding up time cards to ensure that you will keep  
4 within your allotted time limit, and I actually -- time  
5 cards are coming.

6 To accommodate persons who are not on the  
7 agenda who wish to make statements, we have scheduled an  
8 open forum at the end of the briefing that begins at 2:30  
9 and ends at 3:00. If you wish to speak, please add your  
10 name to the list at the registration table when you came  
11 in.

12 In addition, written statements may be  
13 submitted by mail to the U.S. Commission on Civil Rights.  
14 The address is available at the sign-in table.

15 Though some of the statements made today may  
16 be controversial, we want to ensure that all invited  
17 guests do not defame or degrade any person or any  
18 organization. The chair and the federal officer reserve  
19 the privilege to cut short any statements that defame,  
20 degrade or do not pertain to the issue at hand.

21 In order to ensure that all aspects of the  
22 issues are represented, knowledgeable persons with a wide  
23 variety of experience and viewpoints have been invited to  
24 share information with us.

25 Any person or organization that feels

1 defamed or degraded by statements made in these  
2 proceedings may provide a public response during the open  
3 comment period. Alternately, such persons or  
4 organizations can file written statements for inclusion in  
5 the proceedings.

6           The Arizona Advisory Committee appreciates  
7 the willingness of all participates to share their views  
8 and experiences with this committee.

9           Finally, the rules for the  
10 question-and-answer portions of the panel discussions are  
11 as follows: The committee may ask questions of the entire  
12 panel or individual members of the panel after all  
13 panelists have had the opportunity to provide their  
14 prepared statements. Committee members must be recognized  
15 by the chair before asking any question of the  
16 participants.

17           In addition, in order to ensure that all  
18 committee members get a chance to address the panel, each  
19 committee member will be limited to one question plus a  
20 follow-up. When five minutes are left in the session, I  
21 will announce that the last question may be asked.

22           I would like to now begin our meeting by  
23 introducing the first panel.

24           Panel number one is our government  
25 perspective panel, and with us today are Brandi Coffland

1 and Kristen Mackey with the Arizona Rehabilitation  
2 Services. Thank you for coming and I now turn it over to  
3 you.

4 MS. MACKEY: Thank you, chair and members of  
5 the committee. Appreciate the opportunity to come and  
6 speak with you today about the role that Vocational  
7 Rehabilitation plays in the context of subminimum wage  
8 employment.

9 To just begin, Vocational Rehabilitation is  
10 a company or an agency that works with individuals with  
11 disabilities to help them secure competitive integrated  
12 employment. So our goal is to work with individuals with  
13 disabilities to help prepare them for the competitive  
14 integrated work force so that they can earn the wages of,  
15 you know, their peers that are doing the same job, have  
16 the same opportunities for benefits, employment and  
17 advancement in that career. So that's the goal that we  
18 work for here in Arizona.

19 So I'll start with some of the priorities  
20 for Arizona. The youth and adults with disabilities have  
21 opportunities to pursue competitive integrated employment.  
22 An individual's goals for employment should be discussed  
23 and documented in every individualized plan, so not just  
24 when you get to VR, your age for when you're starting to  
25 look for employment. So we're having those discussions --



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1 we think we should have those discussions early and often  
2 in those individualized plans.

3           Individualized planning is key to effective  
4 service provisions and supports and should ensure a  
5 balance of what's important to the person, as the  
6 individual pursuing employment, and then services should  
7 take place in the most integrated setting appropriate to  
8 meet the needs of the individuals with the disabilities  
9 and be appropriate to the individual's identified goals  
10 and outcomes.

11           So vocational rehabilitation and subminimum  
12 wage is kind of a unique concept for us, as WIOA brought  
13 in a new requirement for vocational rehabilitation. VR  
14 does not place individuals in subminimum wage employment.  
15 So employment outcomes must be competitive and integrated,  
16 meaning in the community, without individuals -- or with  
17 individuals that don't have disabilities as well and a  
18 competitive pay, same as anybody else doing the same job  
19 for the same pay.

20           Section 511 of the Work Force Innovation and  
21 Opportunity Act was effective July 2016 and it placed new  
22 responsibilities on VR, 14(c) certificate holders, public  
23 education agencies, Division of Developmental Disabilities  
24 and persons and their families engaged in seeking or  
25 wanting subminimum wage.

1           Youth with disabilities now must engage with  
2 the VR program and complete several required activities  
3 that promote the consideration of competitive integrated  
4 employment prior to beginning subminimum wage employment.

5           Individuals of any age working in subminimum  
6 wage employment must receive career counseling and  
7 information referral services from the VR program every  
8 six to 12 months in order to continue their employment.

9           So I'll turn this over to Brandi to walk  
10 through some of those required activities and how, from a  
11 VR standpoint and a VR lens, this is being implemented.

12           MS. COFFLAND: So voc rehab's  
13 responsibilities for youth interested in subminimum wage  
14 employment, essentially we work with the Division of  
15 Developmental Disabilities and behavioral health to accept  
16 referrals for individuals who are interested in seeking  
17 subminimum wage employment, specifically youth who are age  
18 24 and younger.

19           So we process those referrals for any youth  
20 interested in subminimum wage employment, and then our job  
21 is to provide documentation that they've completed all of  
22 the required activities within the law.

23           So those required activities are they have  
24 to complete what we call pre-employment transition  
25 services which are essentially job readiness services or

1 transition services under IDEA. The individual also has  
2 to apply for voc rehab, and we have to determine their  
3 eligibility, so it will be determined whether they're  
4 eligible or ineligible based on our criteria.

5           If they are eligible, they proceed with  
6 developing an individualized plan for employment and then  
7 we help them to seek competitive and integrated  
8 employment.

9           . If they are ineligible, essentially we have  
10 determined that they do not want to seek competitive  
11 integrated employment or they're not able to; we feel like  
12 they do not have the potential to actually be successful  
13 in obtaining competitive integrated employment, and we  
14 will determine them ineligible.

15           But throughout this process, the other  
16 required activity is that we're providing career  
17 counseling, information referral to the individual to make  
18 sure that they're making an informed choice; that they  
19 thoroughly understand what subminimum wage employment is  
20 versus competitive integrated employment and that they  
21 understand all the services and supports that are  
22 available to them to seek competitive integrated  
23 employment.

24           So we really want to make sure that they  
25 understand the voc rehab program, all the services that we

1 can offer to help prepare them for employment and help  
2 them maintain employment through customized employment or  
3 support employment which are services within the voc rehab  
4 program.

5                   So some of the key elements Arizona Voc  
6 Rehab considers when we're providing the required  
7 activities, we really want to have our staff explain the  
8 requirements of Section 511 so the youth thoroughly  
9 understand that when they come to us, they have completed  
10 various activities; that there are consequences  
11 essentially if they refuse to participate with VR. If  
12 they refuse to apply for our services, if they refuse to  
13 complete pre-employment transition services, they will not  
14 be eligible to enter subminimum wage employment until they  
15 reach the age of 25.

16                   We want our staff to thoroughly explore the  
17 use, need and eligibility for pre-employment transition  
18 services and provide those services as appropriate. And  
19 then we also, like I said, support the youth and family  
20 making an informed choice about what type of employment  
21 they want to pursue, what is appropriate for that point in  
22 the individual's life and making sure that they  
23 understand, if they do choose subminimum wage employment,  
24 perhaps that is a starting point and that they can come  
25 back to voc rehab at any time when they're ready to pursue

1 competitive integrated employment.

2           So part of that job is obviously to provide  
3 a lot of documentation to that youth and then they are  
4 able to go to a 14(c) certificate holder, give the  
5 required documentation and begin subminimum wage  
6 employment, if that is their choice.

7           Some of the challenges that we've noticed  
8 implementing Section 511 over the last couple years, the  
9 process of Section 511 and the documentation requirements  
10 are very cumbersome. They do take a decent amount of  
11 time, depending on the individual's particular situation  
12 and what types of services they might require. So it can  
13 delay their ability to enter perhaps a summer subminimum  
14 wage employment program. Some individuals will want to do  
15 that during high school, so this definitely affects their  
16 ability to do that and get into those services in a timely  
17 manner.

18           And then also youth who are determined  
19 ineligible for VR due to their interest in subminimum wage  
20 employment are no longer what we call potentially eligible  
21 for pre-employment transition services. So it does add --  
22 essentially takes them out of the loop of receiving some  
23 essential services. So we experience some challenges with  
24 that.

25           Moving on to the requirement regarding

1 individuals of any age who are already working in  
2 subminimum wage employment. Our job through our staff is  
3 to provide career counseling and information referral  
4 services. So at various intervals during that person's  
5 employment, either every six months or every year,  
6 depending on when the individual started subminimum wage  
7 employment, we actually go out and provide career  
8 counseling information and referral services to make sure  
9 that individuals know that competitive integration  
10 employment exists; it is an option and that they do have  
11 options when they're determining what type of employment  
12 they want to engage in, and that there are opportunities  
13 for them to be supported in working towards advanced  
14 levels of employment.

15           So we do that by going out to the 14(c)  
16 certificate holder's location. So we engage with the  
17 providers in our community. We've done a lot of  
18 collaboration with them, with DDD, AHCCCS, other entities  
19 to really make this a collaborative effort. So usually  
20 14(c) certificate holders are contacting us, letting us  
21 know that they need career counseling information or  
22 referral for their members, and so we will go out and do a  
23 group presentation, engage the individuals in a group  
24 discussion about why they work, past work experiences, the  
25 importance of learning new job skills, the general basics

1 of looking for and applying for work and then the  
2 importance of keeping a job. And so that's really a group  
3 discussion with those individuals, trying to engage them  
4 and learn from each other in that discussion.

5 We provide resources for employment,  
6 transportation, et cetera, during the presentation and  
7 then we also provide a handout for individuals to take  
8 home.

9 We definitely experience some challenges, I  
10 would say, gathering the information from -- or maybe not  
11 the information. I'd say experiences. We experience  
12 challenges with parents and families attending the  
13 presentations, so we feel like we're giving information to  
14 the members, but it may not be getting home to the people  
15 who might assist them in making decisions or making  
16 changes in their employment. So I'd say that's a  
17 challenge.

18 We've revised our group presentations  
19 multiple times because we found that the information may  
20 be too challenging for some, too simple for others.  
21 Perhaps it's too long. Individuals sometimes do not want  
22 to engage in these presentations because they feel like  
23 it's a just a hurdle they have to jump through in order to  
24 keep their job, and then we've noticed, to the best of our  
25 ability to track the -- the impact of career counseling



1 information and referrals, we've received a very small  
2 number of referrals as a result of our career counseling.

3 MS. MACKEY: I'll speak a little bit to the  
4 numbers of individuals. So as mentioned for the youth  
5 with subminimum wage, any youth must be referred to VR.  
6 In 2018, relatively new, we actually processed 553  
7 individuals through that year. In 2019, we processed 96,  
8 and so we're seeing a decrease in the numbers of youth  
9 that are coming to us to be determined ineligible to move  
10 into subminimum wage, so that is a benefit.

11 For pre-employment transition services,  
12 we're seeing another positive trend. The first year in  
13 2018, we had 113 youth come to us to participate in  
14 pre-employment transition services, and this fiscal year  
15 2019, it was 603. So we're seeing a nice shift in the  
16 dynamic of individuals really wishing to prepare for  
17 competitive integrated employment.

18 For the CC I&R, presentations, that's a  
19 little bit harder to track, but we're on course to deliver  
20 about 1100 presentations over the course of the year, and  
21 each of those presentations has multiple members that  
22 participate in those presentations. So, you know, as  
23 Brandi mentioned, it's been kind of a capacity and  
24 resource development for VR to be able to continue to  
25 maintain those presentations. But we do see that folks

1 are now becoming aware of the requirement and reaching out  
2 to VR to get that information.

3           On a more global scale, if we take a look  
4 from January 2016 to April 2019, the total change in  
5 subminimum wage workers, if all were amended or pending  
6 without being counted and were excluded from the total  
7 count, it was 836 individuals. The total change then,  
8 given the same parameters, was 675, so reduced 175  
9 individuals.

10           Don't know where or how that happened, where  
11 those folks went to. This information is off of the  
12 Department of Labor website, and the total reduction in  
13 the number of 14(c) waiver holders, they either expired,  
14 doesn't show up on the DOL list, is ten. So the number of  
15 companies providing that service has reduced also.

16           Just in closing, I just wanted to make a  
17 mention that from a VR perspective, the partners here in  
18 Arizona DDD, AHCCCS Health Care System, GR, Department of  
19 Education -- I'm missing a lot -- GPAD, the vendors, we  
20 have all worked together. There's 511 guidance on our  
21 website, so we have that posted for the community, and it  
22 really walks through whose responsibility, where the  
23 requirements lie for the providers, for the families for  
24 each of the different agencies.

25           So it has been a very collective effort in

1 Arizona to engage all the stakeholders and provide the  
2 information on what can be a pretty complicated process to  
3 try to line out an 11-page document, but we do think that  
4 it hits the mark on trying to guide people from all  
5 different angles to the appropriate resources. So thank  
6 you for allowing us to come in today.

7 CHAIRMAN VAN ASSCHE: Thank you so much. I  
8 will turn it over to the committee, if the committee has  
9 any questions. We have a microphone.

10 MS. HO: This is Melissa Ho. I do have a  
11 question. You mentioned earlier cumbersome reporting, and  
12 that that is a factor that is important, that has some  
13 adverse affects. If the reporting could be streamlined,  
14 what would that do to the numbers published? I mean, is  
15 the decrease in waivers due to the fact that the reporting  
16 is so cumbersome people aren't trying or is the decrease  
17 due to, you know, just that there are better available  
18 jobs? I'm just trying to understand maybe what the  
19 correlation between cumbersome reporting and perhaps the  
20 population affected may be.

21 MS. MACKEY: Yeah, I don't know that there's  
22 a direct correlation. I do think that, to Brandi's point,  
23 the reporting requirements specifically will lend to a  
24 very clear point which is if there are subminimum wage  
25 opportunities for youth to participate in in the summer

1 and they're just barely 14 and they learn about it in June  
2 and it starts in August, there's probably not going to be  
3 an opportunity for them to participate in a service that  
4 can build skills over the summer for some of those  
5 opportunities that youth without disabilities might be  
6 able to engage in readily without having to jump through  
7 some extra barriers and hoops to do that.

8 MS. TRAVER: My name is Beverly Traver. My  
9 question for you is you mentioned that there's an  
10 assessment that they go through and they're either  
11 deemed -- candidates are either deemed eligible or  
12 ineligible. My question to you is is there a period for  
13 reassessment once this assessment is completed? Are they  
14 able to complete programs or training and come back again  
15 to get reassessed or reevaluated? And if so, is there a  
16 time period that they have to wait? Is it, you know,  
17 after three months you can come back or after six months  
18 or after completing X number of trainings or is it just a  
19 one-and-done kind of thing?

20 MS. COFFLAND: They can actually come back  
21 at any time, but we're essentially going to sit down with  
22 them and say what has changed since the last time that  
23 you've been there? So we may do ineligible based on the  
24 fact that we did an assessment; we determined that you're  
25 currently not able to be successful in voc rehab services

1 in order to gain competitive integrated employment. We  
2 would evaluate whatever your barriers were at that time.  
3 Have you participated in services to help address those  
4 barriers? Has something changed in your disability? Has  
5 it gotten better, worse?

6 We would be asking those questions to see  
7 are you ready to come back for voc rehab, because we don't  
8 want to keep putting people through our process. It's  
9 time consuming. It does require a lot of participation  
10 for various individuals. So we don't want to do that to  
11 people unless they feel like they're ready and could be  
12 potentially eligible.

13 MS. TRAVER: Is there a time limitation?  
14 Could they come back the next week?

15 MS COFFLAND: We do have individuals that  
16 come back the next week, yes.

17 MS. MACKEY: One of the things we find  
18 initially also is that some families come to us with just  
19 the kind of the notion that, no, we don't want to  
20 participate in VR right now, makes them ineligible, and if  
21 the family or the youth, the guardian is making that  
22 choice for their youth and for their son or daughter, we  
23 don't have much of an option. We do the explaining. We  
24 try to coach through that: What does that look like;  
25 here's what that means, but then sometimes they will come

1 right back in and say, oh, we may have made the wrong  
2 decision. So there's not necessarily a time limit.

3 CHAIRMAN VAN ASSCHE: Do we have any other  
4 questions?

5 MS. FERGUSON-BOHNEE: Thank you for sharing  
6 with us today. I just had a question with regards to  
7 youth versus adults, and I wasn't sure about the numbers  
8 that you provided. I think they're probably overall, but  
9 if you could just provide some information about that, and  
10 if you had any additional information about the number of  
11 adults who move from subminimum wage employment to  
12 competitive employment, and if you have any information  
13 that you can share with regards to are there people who  
14 drop out of the process and, you know, why do they do that  
15 and are there -- what are those challenges?

16 MS. MACKEY: For the subminimum wage  
17 referrals, that is specific to youth. We do not have an  
18 adequate mechanism to track those moving out of subminimum  
19 minute wage into competitive integrated. Some of those  
20 numbers where you see a decrease, there's not a tracking  
21 mechanism for where they've gone. So it is unknown what  
22 caused them to move out of or where they went to.

23 So because of some of the challenges with  
24 data sharing across multiple different entities, it's not  
25 easy to track a single individual through the multiple

1 systems.

2 And remind me of the second question.

3 MS. FERGUSON-BOHNEE: One of the questions  
4 was, you know, if you knew what the challenges were. I  
5 mean, maybe you don't have data on it, but you may have  
6 information from people who come into your offices.

7 MS. MACKEY: Yeah, I think can we speak  
8 anecdotally to that information. Brandi can certainly  
9 pitch in. Both Andrea and I have been counselors in this  
10 field as well, so we can speak from personal experience.  
11 Sometimes the supports are challenging to obtain. It's  
12 difficult to participate in the services.

13 Folks sometimes will find a job on their own  
14 and not come back and let us know and so, you know, then  
15 it's difficult to find them out in the communities or  
16 we're not able to track to completion. Any other --

17 MS. COFFLAND: I think sometimes youth who  
18 are being referred to us for subminimum wage don't  
19 complete our process because it is too cumbersome.  
20 Perhaps they're coming and they don't understand the  
21 activities that they're going to have to participate in.

22 So we get a lot of individuals that are  
23 referred to us. We sit down and meet with them and they  
24 just expect us to give them a piece of paper that says  
25 you're ineligible. You can take this and go enter

1 subminimum wage employment, and they find out that it's  
2 not that simple; that there's various activities that they  
3 actually have to participate in; that we have to reach out  
4 to their schools to try to get documentation on  
5 transition; that we need very specific documentation to be  
6 able to verify that they completed activities. We might  
7 put them through some assessments to see if they are  
8 eligible or ineligible.

9           So sometimes it could take as little as a  
10 week and sometimes someone might be with us for a couple  
11 months before we can determine that they are ineligible.  
12 And if we do determine they're eligible, they could be  
13 with us for years. And then at the very end of that, if  
14 they're unsuccessful with everything that we provided and  
15 they're not able to continue competitive integrated  
16 employment, we would give them a final piece of  
17 documentation that says you can now go enter subminimum  
18 wage employment. So sometimes when people hear that  
19 process, they just decide that it's not worth it.

20           MS. MACKEY: Sometimes also the barrier is I  
21 may lose my benefits. My family uses my benefits to  
22 support the family or benefits were so hard to get and now  
23 I am worried about losing those benefits. That is a  
24 barrier that we face.

25           We've developed -- or we pay for in Arizona



1 the disability 101 calculator estimator, so you can build  
2 in all the state benefits and federal benefits you earn  
3 and then input what the impact of employment wages might  
4 be on those benefits. So it always works out on the  
5 better end. So we were trying to address that barrier by  
6 providing the disability 101, and -- and I had another  
7 one. I've lost it.

8 MS. COFFLAND: I would say one of the other  
9 barriers -- and we definitely heard this from parents.  
10 I've had parents call me and talk to me about this  
11 process. They ask, yes, I want my youth to have this  
12 opportunity to participate in job training services to  
13 prepare for competitive integrated employment, but when  
14 they find out that voc rehab provides really  
15 individualized services, that we do not provide day  
16 program type services so we're not going to say we're  
17 going to send someone to pick up your youth and we're  
18 going to keep them until 5 o'clock to provide these job  
19 training services; that they would have to be available  
20 throughout the day; that there's a lot of independence  
21 required for the individual to participate in our  
22 services. And when they're not participating, they're not  
23 making progress, that is times when we start moving that  
24 individual towards closure potentially.

25 So that instability they find with the VR

1 program as opposed to subminimum wage employment or  
2 perhaps a day program where they're, you know, involved in  
3 something from 8:00 to 5:00, I think that's also a barrier  
4 that people have expressed to us.

5 CHAIRMAN VAN ASSCHE: Any other questions  
6 from the committee? Any final thoughts from our  
7 panelists?

8 MS. MACKEY: No. Just thank you for the  
9 opportunity to kind of hear the employment side from the  
10 VR perspective and looking forward to getting the  
11 briefing.

12 CHAIRMAN VAN ASSCHE: Thank you so much for  
13 coming here.

14 We're going to take a 15-minute break and  
15 then we will begin with our second panel. Thank you.

16 (Recess taken, 10:03 a.m. to 10:17 a.m.)

17 CHAIRMAN VAN ASSCHE: Welcome back,  
18 everyone. We will begin with our second panel. Panel  
19 number two is our education, research and advocacy  
20 perspectives panel and I will introduce our panelists.

21 We have J.J. Rico with the Arizona Center  
22 for Disability Law and Susan Voirol with the University of  
23 Arizona Sonoran Center for Excellence in Disabilities.

24 Mr. Rico, we may begin with you.

25 MR. RICO: Thank you, Commission and

1 committee for this opportunity.

2 My name is J.J. Rico. I am the chief  
3 executive officer for the Arizona Center for Disability  
4 Law. I'm going to provide you a little background about  
5 ACDL and our role, how we're funded and basically our  
6 mission vision and then what we've seen from consumers,  
7 people with disabilities that call us on this issue  
8 specifically related to employment discrimination, but  
9 also access to competitive integrated employment.

10 So the Arizona Center for Disability is a  
11 nonprofit law firm. We're the only public interest law  
12 firm providing free legal services to people with  
13 disabilities in the State of Arizona. We receive our  
14 funding from the federal government. As such, we are the  
15 dedicated protection advocacy agency for Arizona. There  
16 is an office like ours in every state and territory. We  
17 are dedicated to protecting the rights of individuals with  
18 a wide range of disabilities including physical, mental,  
19 psychiatric, sensory and cognitive disabilities.

20 We also are part of a nationwide network, as  
21 I said. So if you happen to leave Arizona or you have  
22 colleagues or friends and they need access to the services  
23 that we provide, you can find that in every state and  
24 territory.

25 Our current mission is to assist Arizonans

1 with disabilities, to promote and protect their legal  
2 rights to independence, justice and equality. We have a  
3 vision of society where people with disabilities can gain  
4 full acceptance without barriers.

5 So as the PNA, we also have an additional  
6 grant called the client assistance program that directly  
7 works with clients of the vocational rehabilitation  
8 system. So we can also provide that perspective today.

9 So we're here to share our view and our  
10 position on Section 14(c) of the Fair Labor Standards Act  
11 and we want that program to be phased out and eliminated.

12 So as the PNA, the reason we take that  
13 position is because we're 80 years past that law. If we  
14 think about when the Fair Labor Standards Act was passed,  
15 it was 1938. It was following wars. This law was created  
16 to address veterans with disabilities to try to provide  
17 employment opportunities. The vision or the view on  
18 disabilities at that time was extremely different than it  
19 is today. At that time, there was even listed  
20 disabilities that today at least our organization would  
21 laugh out loud that these disabilities would preclude  
22 someone from gainful employment.

23 Actually written in the law was that certain  
24 disabilities affected the production of people with such  
25 disabilities as blindness, mental illness, cerebral palsy

1 and others. This language in this dated law assumes  
2 certain disabilities affect production. If one were to  
3 believe those disabilities would impact someone's  
4 production, we would not have today professors, judges,  
5 lawyers, actors and even politicians that fit those  
6 definitions.

7                   And so, again, when you're trying to enforce  
8 a law that's 80 years old with assumptions and statements  
9 such as that it's going to lead to low goals, low  
10 expectations for individuals with disabilities, it focuses  
11 on the wrong area. It focuses on the disability rather  
12 than one's ability to do the job.

13                   So, obviously, since 1938 -- I know I'm  
14 looking at a lot of lawyers -- a lot of laws have passed  
15 in those 80 years. There have been some more progressive  
16 laws that have passed that need to be recognized. So I'm  
17 going to give you a snapshot of a few that we've already  
18 talked about this morning, but a couple that need to be  
19 recognized when evaluating whether subminimum wage should  
20 exist, and again, the answer is it should not.

21                   In 1990, the Americans with Disabilities Act  
22 passed, so I'm starting in the nineties, obviously  
23 catching us up. If you look at the history between '38  
24 and '90, there was a series of other laws, Rehabilitation  
25 Act, many others, but I'm going to start with 1990. The

1 ADA passed. The ADA is a civil rights protection for  
2 people with disabilities to be free from discrimination,  
3 free from segregation and to have opportunities like you  
4 and I.

5 Title 1 of the ADA includes the provisions  
6 of the employment protections. Within that protection, it  
7 recognizes that people with disabilities can be employed.  
8 The one true benefit that I -- again, practicing 18 years  
9 law and also focusing on employment, is the reasonable  
10 accommodations provision.

11 Reasonable accommodations look at a person  
12 with a disability and their ability to do essential  
13 functions on the job with or without a reasonable  
14 accommodation, very different standards than the Social  
15 Security determination of whether someone's employable or  
16 not.

17 Reasonable accommodations cost little to no  
18 money. They create -- they need the creativity of the  
19 individuals with the disability. They need the resources  
20 of the community, partners like voc rehab, job coaches and  
21 others to come up with solutions to how someone can do the  
22 job.

23 In 18 years of practicing law and  
24 representing people with disabilities, I've represented  
25 people of all different disabilities that can and will

1 keep jobs and are in a competitive integrated employment  
2 setting, but that's because they have access to the  
3 protections that this law affords.

4           Sometimes we do see employers make wrong  
5 decisions and wrong assumptions, but that's not because  
6 the individual can't do the job. It's because they  
7 were -- the employer was not informed of these laws and  
8 what their duties were.

9           The 1990 Americans with Disabilities Act, it  
10 was updated in 2008. I just want to recognize that  
11 update. Although the definition of disability did not  
12 change, what did change was how one is going to look at a  
13 person with a disability, and why that is so important is  
14 because I believe it changed the focus from whether or  
15 not -- the threshold question of whether this is a person  
16 with a disability. It moved, it shifted to whether or not  
17 that person can do or is qualified for the job, and so  
18 that's really where the focus should be when we're talking  
19 about disability and employment.

20           So before WIOA, the Work Force Innovation  
21 Opportunity Act, in 2014, we had the Work Force Investment  
22 Act of 2001, really strong language in that law that  
23 eliminated extended employment or sheltered workshops.  
24 And so, again, sheltered workshops are an environment,  
25 segregated environment, where people with disabilities do

1 not or traditionally do not have the opportunity to  
2 interact with peers outside of the disability community,  
3 and so that was eliminated in the law.

4           However, there are, as you've heard, still  
5 opportunities -- I wouldn't call them opportunities.  
6 There are still sheltered workshops that exist today, but  
7 as you heard, VR has to take those steps to see if someone  
8 can perform the job or is qualified to do the work.

9           One of the things that we see in our office  
10 is that some of those evaluations still are focusing on  
11 one's disability rather than their abilities. We've seen  
12 contractors or evaluators who have an antiquated view of  
13 disabilities. So when they're writing their report on  
14 whether someone can maintain employment or be employed,  
15 it's from a Social Security determination on the extent of  
16 one's disability, not evaluating what accommodations could  
17 assist that person in an employment setting.

18           The other thing we see is a vision that --  
19 that they are asserting their own vision for that person  
20 as opposed to the person sharing what they want to do.  
21 There are statistics that show that if one is involved in  
22 that transition plan or identifying that employment goal,  
23 that they're much more successful in maintaining that  
24 employment goal, rather than the parent saying this is  
25 what I want you to do or whether it's someone else telling



1 them that's what they should do.

2           As a father of a 12-year-old child with a  
3 disability, as we approach transition age, I'm sure my son  
4 is going to come up with very different employment goals  
5 than I would want for him, but I do know if it's something  
6 that he wants and that he enjoys, he's going to be much  
7 more successful in his goal and his pursuit of that goal.

8           The other thing that I want to recognize is  
9 a GA report in 2001 also noted that five percent of people  
10 with disabilities -- only five percent ever leave  
11 sheltered workshops for competitive integrated employment.  
12 So we've heard some statistics or some programs that go  
13 back and reach back and see if someone wants the  
14 opportunity to come back to competitive integrated  
15 employment, and although that's a data statistic, if we  
16 looked at it today, I'm not sure how much that might  
17 change. Again, once one is in placement, they may not  
18 want to move for a number of factors.

19           So in 2014, we had the Work Force Innovation  
20 Opportunity Act, and we had some earlier panelists, and so  
21 I won't repeat everything that they said about some of the  
22 substantial provisions that include, ensuring that --  
23 requiring that anyone under 24 explore and try competitive  
24 integrated employment before they're placed in a  
25 subminimum wage setting. That's essential. Again, we

1 advocate for exposure, more information, access to your  
2 rights on what are the options.

3           We've heard that some of the reasons why one  
4 might choose subminimum wage is because of the loss of  
5 benefits, but the reality is we also heard earlier today  
6 that there are opportunities to maintain benefits while  
7 being employed, and that education through different  
8 programs is essential to make sure that not only the  
9 individuals but the family know that.

10           Being a representative payee for an uncle  
11 with schizophrenia, I know that my own family struggled  
12 with that; that if your uncle goes and gets a job, that he  
13 won't be able to keep his Social Security or he won't be  
14 able to get his health care, and the reality is is that he  
15 could maintain all of those while maintaining employment.  
16 But, again, even in my own family, I struggled to educate  
17 them on that fact. So I know that's a reality.

18           So the other things that the work force --  
19 or WIOA requires is that state agencies, including  
20 Medicaid, intellectual and developmental disabilities  
21 programs, VR and education, they prioritize competitive  
22 integrated employment. Again, that has to be the priority  
23 for transitioning and phasing out subminimum wage. It  
24 extends post-employment services from 18 to 24 months.  
25 Again, more opportunities, more exposure.

1           The question that the panel asked about can  
2 you get reevaluated, the question I have is what are  
3 evaluation tools, and that's what needs to be discussed.  
4 Are evaluation tools evaluating someone on the extent of a  
5 disability or are they evaluating someone on their  
6 employability? And again, I don't have access to that  
7 right now, but that's what needs to be reviewed. Again,  
8 when looking at people with disabilities, we have an  
9 antiquated view of a medical prognosis or a diagnosis  
10 rather than one's abilities to do a job.

11           So a couple of -- few more points. I'm  
12 going to look at cards just because sometimes I go over  
13 time.

14           In 2018, the National Council on  
15 Disabilities, an independent federal agency charged with  
16 advising the president, congress and other federal  
17 agencies regarding policies that impact people with  
18 disabilities has repeatedly called for the elimination of  
19 subminimum wages under 14(c), including in its recent  
20 report entitled *National Disability Employment Policy from*  
21 *the New Deal to the Real Deal, Joining the Industries of*  
22 *the Future*. Within that report it states, "The past two  
23 decades of research pertaining to supported employment  
24 reveals that it is easier and more effective to place a  
25 person in a job that matches his or her interests and then

1 train them with appropriate services and supports than it  
2 is to train someone in a segregated setting where they  
3 learn skills that are not transferable or even desirable  
4 in competitive integrated employment. As such, the strong  
5 consensus of decades of research and study is that  
6 employment services are most successful through  
7 individualization, strong job matches and the appropriate  
8 intensity of flexible services and supports provided in  
9 typical work settings."

10 So, again, as I shared with you, my  
11 12-year-old's going to have much different opportunities  
12 and desires than I may have for him, but I know that if he  
13 sets his goals for himself, he's going to be much more  
14 successful in that planning and in his future.

15 This same report has a number of  
16 recommendations that we, as the Arizona Center for  
17 Disability Law, also support: Phasing out the 14(c) on a  
18 six-year timeline concurrent with a phase-up of systems,  
19 changes necessary to bring people with disabilities into  
20 competitive integrated employment.

21 Again, we recognize that phasing this will  
22 not be an overnight process. There needs to be adequate  
23 supports for those who are currently 14(c) certificate  
24 holders. Current legislation that passed the house this  
25 year gave a six-year recommendation in addition to

1 supports for the state, for grants to phase it out and to  
2 change their business models.

3           The Department of Labor also issues a  
4 two-year moratorium on any new 14(c) certificates. We  
5 support that. Increasing oversight of the existing 14(c)  
6 system until phase-out is complete, we would support that.  
7 We would also support additional monitoring today.

8           We do receive calls from individuals that,  
9 again, desire competitive integrated employment but feel  
10 that they are stuck in subminimum wage settings and  
11 they're not getting trained to get out of that environment  
12 and they're not being evaluated on whether or not they can  
13 transition into competitive integrated employment.

14           This report also recommends, and we support,  
15 retaining the current definition of competitive integrated  
16 employment used by the Department of Education, the Office  
17 of Special Education, Bureau of Rehabilitation Services,  
18 Regulations and Guidance to build on a system-change  
19 success. Again, you need to say competitive integrated  
20 employment. You just can't say employment. It's got to  
21 be clearly defined so folks have goals when they're  
22 pursuing employment and you know what you're looking for  
23 and know what the end goal is.

24           This report also makes data-driven  
25 observations on the need to build capacity and

1 infrastructure for support employment services, to change  
2 pay structures, to promote recruitment, retention and  
3 advancement of skilled labor force that can provide  
4 supported employment and related services and to make  
5 improvements of the -- to the process of voc rehab and  
6 other employment services providers who support people  
7 with disabilities.

8           Again, as an attorney and as a law firm that  
9 represents people who have been discriminated against, we  
10 know that education is key for everyone on all sides and  
11 especially the future employers of the world. The  
12 employers of the world need to understand that this is a  
13 work force that can contribute not only to their agency or  
14 their organization or their place of business but  
15 contribute to society.

16           There are statistics out there that also  
17 show that once a person with a disability is adequately  
18 trained and effectively trained, that their retention  
19 rates are at a greater rate than someone without a  
20 disability. So, again, we need to look at this as the new  
21 labor force that exists and exists today.

22           So I did mention the House of  
23 Representatives recently passed the Transformation to  
24 Competitive Employment Act which would make many, if not  
25 all, of these recommendations a realities, and we'll see

1 what the next year or the current congressional session  
2 holds for a Senate passage.

3 I'd like to close with saying over 2,000  
4 Arizonans with disabilities and 321,000 people nationwide  
5 are legally paid subminimum wage, largely in settings  
6 where they are segregated from non-disabled peers and  
7 broader society. The subminimum wage for too long has  
8 created and reinforced a life of poverty and dependency on  
9 public support.

10 However, ending subminimum wage alone is not  
11 enough. We need to ensure that people with disabilities  
12 have opportunities to work at fair wages alongside  
13 co-workers without disabilities.

14 Again, thank you for the opportunity to  
15 share our vision on the future of employment opportunities  
16 for persons with disabilities.

17 CHAIRMAN VAN ASSCHE: Thank you, Mr. Rico.  
18 We'll turn it over to Susan Voirol.

19 MS. VOIROL: Members of the Commission,  
20 thank you for inviting me to speak today.

21 My name is Susan Voirol, and I am a program  
22 manager with the Sonoran University Center for Excellence  
23 in Developmental Disabilities. We call ourselves UCEDD  
24 located at the University of Arizona in Tucson.

25 This Sonoran UCEDD is one of 67 federally

1 funded university centers for excellence in developmental  
2 disabilities, focused on innovation, capacity building and  
3 systems change to support inclusion of people with  
4 disabilities in education, employment and all aspects of  
5 community life.

6 Our work is focused on partnering with the  
7 community to expand possibilities and enhance independence  
8 for people with disabilities through interdisciplinary  
9 training of students and service professionals, research,  
10 technical assistance and information sharing and exemplary  
11 services and program development. Our UCEDD has many  
12 focused areas, including leading the Employment First  
13 Initiative in Arizona.

14 The Sonoran UCEDD is currently facilitating  
15 conversations, while also working with multiple  
16 stakeholders to address expanding employment opportunities  
17 for all individuals who have disabilities.

18 In my testimony today, I will discuss the  
19 low rates of employment for people who have disabilities  
20 and provide a brief overview of the many benefits  
21 associated with increasing opportunities for competitive  
22 integrated employment for people who have disabilities. I  
23 will also talk about the Employment First Initiative in  
24 Arizona and emphasize the importance of capacity building  
25 to ensure that all people who have disabilities have the



1 support to work in their communities.

2           Historically, people with disabilities have  
3 been and continue to be underrepresented in the work  
4 force. Arizona's overall employment rate of all  
5 working-age individuals who have a disability is  
6 36 percent, while those individuals with an intellectual  
7 disability are employed at a rate of about 26.3 percent.  
8 There are many reasons for these low employment rates,  
9 including discrimination, insufficient skill preparation  
10 and inadequate supports to obtain and retain employment.  
11 However, we know from research and from hearing directly  
12 from people with disabilities that people who have  
13 disabilities want to work and be in the labor force just  
14 like the rest of society.

15           Evidence-based practices such as support and  
16 customized employment strategies have demonstrated that  
17 people with significant support needs can work  
18 successfully in competitive jobs and community businesses.  
19 This includes individuals who may be in non-competitive  
20 center-based or group-supported settings, as well as those  
21 in-services such as day treatment and training.

22           We know that people who have significant  
23 disabilities can and do work competitively in the  
24 community. At this juncture, as a state, we have an  
25 important opportunity to provide training and services to

1 people currently in 14(c) settings to help them transition  
2 to competitive employment and enter the general labor work  
3 force. This process can benefit people who have  
4 disabilities, employers and the economy of Arizona.

5           First of all, we know that employment is  
6 associated with many benefits at the individual level.  
7 Working allows people to contribute to society, earn an  
8 income, become tax paying citizens, feel respected and  
9 valued. It gives people more independence, freedom and  
10 control over their lives. Having a job can contribute to  
11 a sense of purpose and give individuals an identity. In  
12 addition, work can provide opportunities to build new  
13 relationships, gain skills and promote continued  
14 development.

15           When more people who have disabilities are  
16 employed in their communities, it also benefits  
17 businesses. Research shows that employers and businesses  
18 benefit by diversifying their work forces. As an example,  
19 I will point to a report called *Getting to Equal in 2018:  
20 The Disability Inclusion Vantage Report* which was  
21 developed by the American Association of People with  
22 Disabilities and DisabilityIN for Businesses. According  
23 to this report, disability inclusion efforts can benefit  
24 employers by increasing innovation, improving shareholder  
25 value, improving productivity, improving market share and

1 enhancing business reputations.

2           Increasing the participation of people who  
3 have disabilities in the general labor market also  
4 benefits the economy. As for Arizona specifically, the  
5 very, very newly released *The Power of Disability*  
6 *Employment: The Impact to Arizona's Economy*" report, which  
7 was funded by the Arizona Developmental Disabilities  
8 Planning Council, done by the Institute for Community  
9 Inclusion, summarized that if the state increases labor  
10 force participation of people who have disabilities,  
11 Arizona could, in turn, significantly see increases in its  
12 gross domestic product, job creation and tax revenue which  
13 will benefit everyone in Arizona.

14           Additionally, according to the report, we  
15 could expect to see fewer people who have disabilities  
16 living in poverty, improvements in health and a reduction  
17 in health care costs, increased opportunities for  
18 individuals to be self developed, more independent and  
19 experience improved self confidence, to experience the  
20 benefits of contributing to society and have more control  
21 in their personal lives.

22           To recap, research supports that when people  
23 who have disabilities work in competitive integrated  
24 employment, it positively affects individuals, employers  
25 and our society as a whole.

1            Employment First is a movement across the  
2 U.S. that is reshaping how we view individuals who have  
3 disabilities and employment. Employment First across the  
4 United States has brought many different entities,  
5 agencies, self advocates and many others today to  
6 strategically and thoughtfully work through barriers and  
7 challenges related to employment for people who have  
8 disabilities.

9            The Association of People Supporting  
10 Employment First, APSE, the vision statement conveys that  
11 Employment First means all people with disabilities have  
12 competitive employment in the inclusive work force, and  
13 their value statement states that APSE believes that  
14 everyone can and should work and have the dignity of  
15 determining their career path. Nationally, we are seeing  
16 much more work being done to support states to make this a  
17 reality.

18            The United States Department of Labor,  
19 Office of Disability Policy, APSE, the State Employment  
20 Leadership Network and the like have provided briefs,  
21 guidance, employment frameworks; they have developed  
22 webinars. They have compiled many resources on system  
23 transformation to guide and support states' efforts as  
24 they increasingly move to more competitive integrated  
25 options and increased competitive employment outcomes for

1 all people with disabilities.

2           A central purpose of Employment First  
3 movement is to make effective employment supports more  
4 widely known and available to people with disabilities by  
5 embedding effective practices into the public service  
6 systems. Emphasis is being placed on competitive  
7 employment being the first option for all people who have  
8 disabilities who are receiving publicly funded services.  
9 This necessitates a move from developmental and  
10 preparatory practices to get people ready for work to  
11 service delivery systems driven by person-centered  
12 approaches that recognize individual strength and assets  
13 in combination with work force accommodations and  
14 contributions to the business community.

15           Other effective approaches that are often  
16 deemed Employment First practices are interagency  
17 collaboration and restructuring of publicly funded  
18 reimbursement structures. These practices seek to connect  
19 the often disjointed systems of public support such as the  
20 education system, the Medicaid Home and Community Based  
21 Services, or AHCCCS in Arizona, vocational rehabilitation,  
22 the Division of Developmental Disabilities and the Work  
23 Force Development, to work together to more effectively  
24 and efficiently support people with disabilities to obtain  
25 and retain competitive integrated employment.

1           In 2017, our current governor, Doug Ducey,  
2 signed an executive order that established Arizona an  
3 Employment First state. This means that competitive  
4 integrated employment is the expected outcome for all  
5 Arizonans who have a disability. The executive order  
6 further outlines efforts that all state agencies that  
7 provide services and supports to persons who have  
8 disabilities shall coordinate to implement Employment  
9 First in Arizona.

10           Currently, the Employment First leadership  
11 team and other community stakeholders are continuing their  
12 work to provide education and awareness of the  
13 possibilities, identify and address implementation issues  
14 and challenges and build capacity to assist systems and  
15 services with shifting their models of practice in support  
16 of real work in competitive jobs earning minimum wage or  
17 higher for all citizens who have a disability.

18           With the current state and national driving  
19 forces, including the Employment First executive order  
20 signed by our governor, the Workforce Innovation  
21 Opportunity Act signed into law in 2014 and the Home and  
22 Community Based Services rules of 2014, we have an ideal  
23 opportunity in front of us.

24           As I mentioned in my opening, the Sonoran  
25 UCEDD is a center that is and will continue to work with

1 all stakeholders to assist however we can to increase and  
2 expand competitive integrated employment opportunities for  
3 individuals who have disabilities.

4           It is important to note that steps have  
5 already been initiated indicating an investment from our  
6 stakeholders in capacity building to ensure that there are  
7 appropriate services in place, a skilled work force of  
8 employment specialists, increased expectations across the  
9 board and aligned funding structures and mechanisms for  
10 the purpose of promoting and incentivizing successful  
11 competitive integrated employment outcomes for those  
12 supporting and those wanting employment.

13           Thank you for the opportunity to speak to  
14 you today.

15           CHAIRMAN VAN ASSCHE: Thank you so much.  
16 Any questions from the committee?

17           MR. KIM: David Kim. This question is  
18 directed to Mr. Rico. You supported the elimination of  
19 the waiver program and, of course, you know, I could  
20 presume why you would want that. But my presumption is  
21 that the reason it's there in the first place is to make  
22 it more attractive for potential employers to hire people  
23 with disabilities. I understand the notion of the  
24 accomodation requirement that mandates employers to make  
25 appropriate accomodation with -- for people with

1 disabilities, but that deals with retention once you get  
2 in.

3           So how do we make sure that by taking this  
4 incentive away from a potential employer, we don't force  
5 the employers away from hiring people with disabilities?

6           MR. RICO: I think it's worth noting  
7 certificate holders are not your big employers.  
8 Traditionally, providers of services for people with  
9 disabilities, it's not the Walmarts of the world that are  
10 certificate holders. So the incentives for employers  
11 should be, you know -- so that's the first part.

12           For employers to change their -- their idea  
13 of people with disabilities, we need partnerships  
14 educating these employers or the Walmarts of the world who  
15 are the large employers to know that there's high  
16 retention rates and value in hiring people with  
17 disabilities.

18           You know, Walmart's not the greatest  
19 example, because we've seen them in the courtroom many  
20 times and they don't traditionally do a great job of  
21 accommodating, but there are many employers out there,  
22 large employers that the voc rehabs of the world work with  
23 that know the value of a person with a disability.

24           So I think they really need to do some  
25 educating on the front about the value of this labor



1 force, because some of these markets have high turnover  
2 rates for the positions where, as I said earlier, the  
3 retention rates for a person with a disability is going to  
4 be much greater.

5           So if an employer can keep a staff member  
6 for a long time, the benefits of -- the benefits are  
7 there, where having to re-train someone over and over  
8 because they're leaving after a year; they go off to some  
9 other experience or they get promoted within, those are  
10 all opportunities obviously for people with disabilities.  
11 But I think, again, it takes an education from all the  
12 partners about the value of employing someone with a  
13 disability.

14           So there is a challenge, and I know that  
15 obviously, from working as an attorney, that there's  
16 discrimination at the front end as well, but we've seen  
17 successful partnerships when VR steps in and educates that  
18 employer that these services can be provided; that job  
19 coaching and training can be provided for that -- for that  
20 person. There's been more successful relationships.

21           MS. HO: This is Melissa Ho. Follow-up  
22 question, Mr. Rico. You mentioned earlier as part of the  
23 potential phasing out that you would be in support of  
24 additional monitoring. I was just curious what monitoring  
25 means. In what context? By whom? I was just needing a

1 little more clarity on that, please.

2 MR. RICO: Sure. Monitoring in terms of the  
3 phase-out, you want to ensure -- I know there is a fear  
4 from the community that have children, adult children in  
5 these placements, that they're going to be at home all  
6 day. So you want to ensure that they've been given the  
7 opportunity to explore their interest, find a placement  
8 that works, that addresses those fears that they might  
9 have or their family might have so they can have a  
10 successful transition from the subminimum wage into a  
11 competitive integrated employment or through another type  
12 of program that may best fit their needs.

13 We heard some of the fears from the earlier  
14 panel that, oh, well, they can't be at work from 8:00 to  
15 5:00 and these other settings provide an 8:00-to-5:00  
16 setting. I do feel with adequate training someone could  
17 learn how to navigate a para transit public transportation  
18 system to go from work to an after -- you know, program  
19 that continues throughout the day. Again, it's about  
20 exploring all of those options, so monitoring in the  
21 phase-out to make sure this is being done.

22 Also, I mean, obviously, there has to be  
23 some monitoring that there's not someone not doing what  
24 they're supposed to to phase out, but presently, more  
25 monitoring also needs to be done.

1           So I just want to make that clear; that we,  
2 as a Center for Disability Law, have access into these  
3 locations and we want to make sure that folks are being  
4 treated fair; that they're free from abuse and neglect and  
5 they have the opportunities presented to them. We know  
6 that organizations are charged with that, but sometimes we  
7 get information that there is abuse taking place, even at  
8 these subminimum wage locations.

9           CHAIRMAN VAN ASSCHE: And a question for Mr.  
10 Rico. You mentioned the Walmarts of the world are not the  
11 employers. Who are the employers for people?

12           MR. RICO: So I'll just be clear: They're  
13 not a model employer in my experience. So they are the  
14 employer of the world. I mean, I think that's just the  
15 reality so --

16           CHAIRMAN VAN ASSCHE: I'm sorry. I don't  
17 think I asked that correctly. I think what you were  
18 saying is that the 14(c) holders are not the large  
19 employers, and I was curious as to who were the holders.

20           MR. RICO: Okay. So this is available on  
21 the Department of Labor website for anybody to Google and  
22 find. I think there are some of the agencies in the room  
23 today, and so maybe they will be speaking later. The  
24 largest certificate holder, at least from our last pull of  
25 the data, with 411 certificates or numbers of workers paid

1 subminimum wage, is the ARC Center from Mesa, Arizona.  
2 Second on the list is the Beacon Group which is 364  
3 workers paid subminimum wage, and, again, this is just off  
4 of this data. They may have new numbers. If they do  
5 speak today, that would be a question for them. Those are  
6 the top two. Then it drops down to someone -- let's see.  
7 Someone has 118 which is the Kings Rehabilitation Center,  
8 Incorporated.

9 If you look, again, at the list, as I said,  
10 they're mainly -- they're not employer names. So, again,  
11 it's a different -- different list of groups than Walmart.

12 MR. YORDY: I am not sure if you can answer  
13 this, a quick question. We had -- Eric Yordy. Sorry.

14 We had information that Maryland, Alaska,  
15 New Hampshire and also the City of Seattle has passed  
16 legislation banning the payment of subminimum wages or  
17 providing greater protection than Section 14(c) to these  
18 individuals with disabilities. I wonder if you have any  
19 information or any knowledge about impact on employability  
20 of individuals with disabilities in those states since  
21 they passed that legislation.

22 MS. VOIROL: I think there's going to be  
23 some others speaking to this, but overall, I will say that  
24 there have been a lot of unintended consequences that have  
25 happened when states have either just -- have not planned

1 accordingly or thought -- been thoughtful about what will  
2 happen when you just shut the doors and if there's nothing  
3 else in place or we're not being meaningful about where  
4 this is going.

5 I am not -- I don't have the data in front  
6 of me. I know Massachusetts closed in 2016. I know a lot  
7 of individuals ended up in group support employment and  
8 some in day treatment which is not competitive integrated  
9 employment.

10 Oregon often is where I look to because they  
11 have the lawsuit. Rhode Island is another one that had  
12 Department of Justice lawsuit where they were told they  
13 had to get people moved from center-based employment.  
14 Oregon just released their report recently. They are  
15 showing movement. It is taking quite some time. In any  
16 state, it's taking quite some time, and that is what we  
17 have been telling our Arizona stakeholders; that we've  
18 been watching states now for five, eight plus years who  
19 have chosen, out of their own accord, to make these  
20 decisions, and they are still struggling to get the right  
21 practices in place and get the employers on board and get  
22 people in place.

23 So we are -- we're in a tight time frame  
24 with the Home Community Base March 22 date of no one else  
25 can no longer be funded in that. Currently, they will

1 keep continuing to fund individuals that happen to be in  
2 that setting but not moving forward after that date, new  
3 people going in, and so there's -- we do have -- the clock  
4 is ticking, and seeing that other states have taken quite  
5 some time to make these shifts, it makes us a little  
6 nervous in Arizona, but we are -- we do have, you know,  
7 the Employment First Initiative and other -- that's where  
8 we're bringing all the stakeholders and have, for several  
9 years now, to really address and help each other  
10 understand each other's programs and how we can do this in  
11 collaboration. No blaming, no finger pointing. We just  
12 have to move in this direction.

13           But there are statistics, and Washington,  
14 the State of Washington, is probably the greatest, South  
15 Dakota. They're also two states that are really doing  
16 things, but they've been doing it for many, many years.  
17 It's been a belief and an attitude in those states that we  
18 will and we believe that people can work, and that is a  
19 huge piece of where we're stuck. If you don't believe  
20 they can work, they probably will not. Whether you're a  
21 parent, a service provider, myself, you. So we have to  
22 also believe in that and create the pathways for that --  
23 for that individual.

24           MR. YORDY: Quick follow-up. We make  
25 recommendations to the legislature, to the U.S. Commission

1 on Civil Rights. We make recommendations to anyone who  
2 will listen. My follow-up question is as advocates, do  
3 you have a set of best practices or a model plan that we  
4 can look at to recommend moving from where we are now to  
5 phasing out potentially the 14(c)? I know that Mr. Rico  
6 said a six-year phase-out with an increase or ramping up  
7 in services. Is there a model that you would recommend we  
8 look at?

9 MS. VOIROL: At the moment, I would  
10 definitely recommend looking at the statewide employment  
11 leadership network model. They've got a fidelity model  
12 that -- again, I don't have that in front of me. They  
13 have worked continuously with states for many years.  
14 Arizona happens to be a member. It's called Sound  
15 (phonetic) and RDD agency is a member, a developmental  
16 disabilities agency, and they guide their work; they help  
17 guide their work for Arizona. We have a lot of  
18 opportunity there.

19 Employment First did develop a strategic  
20 plan with stakeholders in 2015, I believe it was released.  
21 We are in the process this year of revising it. It was --  
22 it was intended at the time to just give people  
23 information and make them aware, and we need -- you can  
24 look at that. It's online.

25 But we really are working towards being a

1 little more -- have an evaluation and really pinpointing  
2 what we need to move forward.

3 I believe that ODEP has done an amazing job  
4 of providing all sorts of guidance for folks, and then  
5 APSE does have -- for employment specialists specifically,  
6 they have competency teams. They have what's called a  
7 CESP examination you can take to see if you're qualified  
8 as an employment specialist job coach, job developer,  
9 someone who's working directly with an individual who has  
10 a disability. There's a lot of work that needs to be done  
11 with that part of the community.

12 Arizona does not require a mandate or have  
13 any sort of training that's required for those  
14 individuals, and they are the front line,  
15 feet-on-the-ground working with the individual trying to  
16 help find employment. So it is a variety.

17 I think J.J. talked about the advisory  
18 committee. I would absolutely point to that. They have  
19 done a tremendous amount of work on this topic and really  
20 trying to be thoughtful. I will say for the first time  
21 that the bill that he also mentioned is probably the most  
22 thoughtful request. It's a phase-out instead of just  
23 closing the doors.

24 So hopefully, that's helpful. There's just  
25 a mix, but it's very consistent typically around the



1 things you've heard already today: interagency  
2 collaboration, high expectations. Informed choice is a  
3 huge one. People don't know what they don't know. We can  
4 call it choice all day long -- and the people in this room  
5 have heard me say this -- until you put the word informed  
6 in front of it, it doesn't really matter, because if they  
7 don't know their options, then they're going to pick what  
8 they do know, and that is often, unfortunately, good or  
9 bad.

10                   And it happens when we start in school, at  
11 the start of education. If we're not doing a good job in  
12 education and following ADA and the requirements, we get  
13 to high school and transitioning individuals to the adult  
14 world, voc rehab, DDD, they're getting what we have, the  
15 foundation. That's what they're getting. So we have got  
16 a lot of work to do in our school systems as well.

17                   MS. RASSAS: I have so many questions. This  
18 is Theresa Rassas. So I'll start with your comments, Miss  
19 Voirol, about a shift in the culture, and I'm wondering if  
20 you're aware whether the University of Arizona or ASU,  
21 where we sit today, or any of our great community colleges  
22 or NAU, whether in their business programs, there's  
23 information being offered to the future employers of our  
24 community? Because I'll tell you I think the assumption  
25 is that if I, as a business owner, hire somebody who's

1 disabled, I do it out of dignity for human life, despite  
2 the fact that it'll be a cost to my business; it might  
3 hurt my bottom line. But it sounds like you might have  
4 information that that isn't true; that it could both offer  
5 human dignity and not hurt productivity and not hurt the  
6 bottom line.

7           So I'm wondering if you're aware of any  
8 programs at the university, not just for students who will  
9 be entering the work force with their disability, but for  
10 future business owners who maybe don't have people in  
11 their lives with disabilities and don't have that broader  
12 view and is that something you think we should include in  
13 our recommendation?

14           MS. VOIROL: I am not aware of anything  
15 specific for like engaging employers in this aspect that  
16 you're talking at university level. I mean, yes, we do  
17 have multiple classes at our universities around  
18 disability objectives and those types of things for  
19 students.

20           Absolutely. I'm all about the more  
21 information, the better. I think our young people are  
22 definitely the ones that are great to have this  
23 information coming in and to work with our employers, you  
24 know, but outside the university, if I can, I will say  
25 employer engagement in helping that community understand

1 our side of it is a huge piece of what we're doing in all  
2 of the work, whether it's Voc Rehab, Employment First,  
3 Vocational Rehabilitation. Department of Employment and  
4 Rehab, even more than Voc Rehab, they have an employer  
5 engagement focus individual that works specifically with  
6 employers. They do put out webinars. They have  
7 constant -- like every third Thursday, there is a  
8 gentleman that has employers come on and talk about, you  
9 know -- there's multiple efforts going on. I'm kind of  
10 tripping over my words. I'm sorry, but we have -- around  
11 employers because we know that is a huge piece of helping  
12 them understand much more broadly than, yes, it's the  
13 right thing to do or, oh, this makes me feel good.  
14 Because, yes, we are seeing -- in that report I mentioned,  
15 as well as disability and in general, a national entity,  
16 and we are the affiliate in Arizona to really help  
17 employers to get access to what they need, whether it's  
18 how do I provide accomodation? What does that cost me?

19                   And we are also developing an employer tool  
20 kit currently in the State Rehab Council subcommittee for  
21 employers, to help them understand all of these things --  
22 a few of us in the room are on that committee -- a tool  
23 kit that they can go to and sort of address a lot of the  
24 issues, an easy access. We know people are busy. They  
25 don't have a lot of time to, you know, take a class or

1 anything, but -- so that's what I can offer in that  
2 employer community right now.

3 MR. RICO: I just want to add a couple  
4 things. Sometimes that is an assumption; that the cost of  
5 hiring a person with a disability is greater than the  
6 benefit. I just want to quote a couple reports.

7 So there is a U.S. Chamber of Commerce  
8 report called *Leading Practices on Disability Inclusion*  
9 that highlights best practices for hiring and supporting  
10 people with disabilities and shows that it is good for the  
11 bottom line. There's also a report out of DePaul  
12 University or study that shows the costs for employers to  
13 make accommodations for employees with disabilities are  
14 very minimal compared to the benefits the company  
15 obtained.

16 So, again, it's dispelling the myth. But I  
17 think you're on to something. I think in the health care  
18 setting, doctors are getting more training on how to  
19 provide services to patients with disabilities. I think  
20 the business community, probably similar training also on  
21 the benefits of hiring someone with a disability. So,  
22 again, more education is not a bad thing and starting at  
23 that level and starting at that age.

24 A lot of these recent college grads are  
25 going to have gone to school with kids with disabilities,

1 and having them in the classroom has been a benefit. I  
2 think they're going to better recognize the value because  
3 they've already been in an inclusive setting, but I think  
4 more education is better.

5 MS. RASSAS: This is Theresa again. Are you  
6 concerned at all, Mr. Rico, that if you phase out  
7 subminimum wage opportunities, which we've heard from our  
8 rehabilitation and voc rehab services, that the goal is to  
9 move them out? I know you're concerned especially with  
10 the shelter workshops, is that employees get there and  
11 don't progress out. But are you concerned at all that in  
12 this gap between people who aren't eligible for the VR,  
13 the gap between them and people who are just not eligible  
14 for anything, that those people will remain unserved?

15 MR. RICO: The reality is they will still  
16 receive services. They may not receive services from  
17 vocational rehab, but there are services out there that  
18 could be provided to an individual in that situation or in  
19 that scenario.

20 Of course I'm concerned that if someone is  
21 just at home and doesn't have a community-based setting  
22 program, but those exist. I mean, we're not here to talk  
23 about the range of services that someone may receive who's  
24 not qualified for vocational rehabilitation services, but  
25 there are some.

1           But I do think the more we phase out, the  
2 quicker we phase out and take away what someone calls an  
3 option, we start changing the framework in which we think  
4 about what someone can do, and I think we'll be surprised  
5 on how many folks who prior or currently are being deemed  
6 to be ineligible are eligible, and I think we just have to  
7 change that discussion. And although I recommended the  
8 six-year phase-out, that starts now and it starts prior to  
9 any law being passed.

10           I think Susan pointed out some great  
11 programs that already exist and I think that those who  
12 currently have 14(c) certificates, we should all start  
13 meeting and having those discussions.

14           Again, being in Arizona, sometimes we have a  
15 bad reputation of being maybe not last, but second to  
16 last. This is an opportunity to be a leader in this. We  
17 do have models from other states that, again, Susan  
18 pointed out, so we're not creating something new. We may  
19 be able to take from our fellow states, sister states on  
20 models that work for them and see if we can implement it  
21 in our state.

22           MS. RASSAS: And Theresa Rassas again and  
23 then I'll hand it off.

24           So you mentioned, Mr. Rico, that you're  
25 federally funded and you mentioned, Miss Voirol, that you

1 also receive federal funding. I am curious about --  
2 please take my assumption that there may be somebody who's  
3 disabled, who has a career in mind where they can be  
4 successful but at a lower productivity than somebody  
5 without that disability, even with accommodations.

6           Is there any federal program that recognizes  
7 employers who take those employees and then pays them the  
8 competitive wage in this integrated setting but then gives  
9 the employer some benefit? So instead of it being less  
10 funding to the employee because of their inability to  
11 reach a productivity level, I am wondering if there are  
12 programs that allow the employer to give that competitive  
13 pay to the employee and then the federal government or  
14 maybe through Governor Ducey's work sort of fill that gap  
15 to, again, as we've heard down the table, incentivize  
16 making these hires?

17           MS. VOIROL: Yes, there are. There's  
18 multiple ways to -- I mean, the first thing that comes to  
19 mind is on-the-job training which is definitely a service  
20 in voc rehab that, without going into great detail, does  
21 allow for that, where kind of naturally, we pay an  
22 employer partial wages but the person with the disability  
23 being paid full wages, and it's -- kind of naturally have  
24 training within that employer, without going into great  
25 detail.

1           But, you know, someone in the room handed  
2 this to me right before we walked in. There's multiple  
3 federal business tax credits, deductions for employing  
4 people with disabilities that cover accommodations. I'm  
5 not going to -- I won't read this. This was developed by  
6 the Arizona Developmental Disability Planning Council and  
7 ASU Morrison Institute for Public Policy, federal business  
8 tax credits and deductions -- this is what the title of  
9 this handout is -- for employing people with disabilities,  
10 covering accommodations and accessibility costs,  
11 architectural, transportation, tax deductions. I don't  
12 know if you want to know the IRS code section, 190, okay.  
13 Small business tax credit and the work opportunity tax  
14 credit. Those are just a few listed on here, but there  
15 are multiple incentives, not just for the employer but for  
16 people who have disabilities to go to work on benefits as  
17 well, whether it's a Pass program or Access Freedom to  
18 Work.

19           I will be honest with you: These are the  
20 things that we need to really get out there in front of  
21 people, because they're not really always known. I don't  
22 think we do a great job of educating people of all the  
23 benefits of going to work. It's okay. You can keep your  
24 benefits. There's multiple things federally in place that  
25 allow you to keep your benefits and go to work for a



1 period of time. It's just getting -- getting those things  
2 in front of people. And we are working on that through  
3 our initiatives and with our stakeholders to show the  
4 peer-to-peer, to -- we're getting ready to release the  
5 websites that's accessible and easy for people to access  
6 and understand where they can go and how they can get  
7 help. The hope is that we start seeing more people, even  
8 independently and more on their own going and accessing  
9 these things. I often -- people just don't know.

10 MR. RICO: And I would just really briefly  
11 add even at no cost. So sometimes there's an assumption  
12 because a job description says this is what one does and  
13 you don't check all those boxes, you're not qualified.  
14 And I think we've all been in professions or have job  
15 titles that aren't reflective of the duties we do or we do  
16 so many other things, that an employer has to be creative  
17 when hiring a person with a disability on what they can do  
18 and then creating the position so that they excel and not  
19 just put them in and say, oh, you're a coordinator and  
20 this is what a coordinator does.

21 So we see that a lot. Even with my own  
22 staff, I have staff members who excel at different things.  
23 They have a law degree but are also an IT expert and I use  
24 them in that area as well. So we really have to think  
25 outside the box. Just because you did not -- you can't do

1 all of these requirements, are there other things you can  
2 do to make a job and contribute to that employer.

3 And so, again, that costs nothing. That  
4 comes with no tax incentive, but it does -- again, we have  
5 to start talking about it differently on what skills that  
6 person can do and what they contribute to that employer.

7 MS. VOIROL: If I could lastly mention real  
8 quickly -- this would be bad if I forgot this -- the  
9 planning council also has invested dollars into the City  
10 of Tempe. I'm not going to go into great detail, but they  
11 have become what -- they're calling themselves an  
12 Employment First city. The reason I want to bring it up  
13 is because they are an employer in our state that is very  
14 much looking -- and they already have everything that  
15 we're talking about, and then to really invest in hiring  
16 more individuals who have disabilities within their city,  
17 but to do it with integrity and right.

18 So they're changing their HR policies. They  
19 are having us train their supervisors. Sometimes we're  
20 just doing the basics of disability etiquette because,  
21 again, awareness is key. People are fearful of people  
22 with disabilities sometimes and it's just all for just  
23 really uninformed reasons.

24 So there's -- there's a lot of work going on  
25 here. We're just not quite there, but we've got, you

1 know, a lot of ahead of us and I feel like we are in -- I  
2 have been amazed at stakeholder groups being so -- even  
3 though we don't all agree, because we don't, but we are  
4 working together to get through those hoops and to figure  
5 it out, learn who we all are and what we do, is why this  
6 really is the best way to get as many people as we can in  
7 competitive integrated employment.

8 MS. BROWDER: Rebekah Browder. Hi. Thank  
9 you very much for your testimony. I am wondering if you  
10 are aware of any contact with the Chamber of Commerce,  
11 Phoenix Chamber of Commerce to do any training or go to  
12 the smaller businesses to educate them.

13 MS. VOIROL: I would -- and I hope that I'm  
14 saying this right for the people behind me, but our  
15 providers who work feet-on-the-ground that really are  
16 looking to get in the door to get a relationship with  
17 employers, they're the ones that are often working in  
18 front of chambers.

19 It's certainly something we can do. I'm not  
20 feet-on-the-ground, but, yes, there are people that are  
21 engaging with those individuals to help them understand  
22 and to utilize their expertise as well and their  
23 connections.

24 MS. TRAVER: This is Beverly Traver. I just  
25 have a question, and this might show my ignorance just in

1 how deep this issue goes, but a question from a person  
2 with a disability viewpoint: Could doing away with 14(c)  
3 possibly increase anxiety, frustration for a person with a  
4 disability? Would that result potentially in increased  
5 expectations and maybe putting them in jobs that they feel  
6 are too much for them or that they're not capable of  
7 handling? Is that possible?

8 MR. RICO: So I never want to speak for a  
9 person with a disability, not being one. Our mission and  
10 vision is to make sure they have their voice. I mean, if  
11 they were here, I would obviously defer to them. With  
12 anything, I mean, I think what we've seen -- at least I  
13 can just speak from the clients that I represented.  
14 There's stress, anxiety, you know, related to any job.

15 As a person with a disability, there's more  
16 layers, that's true, making sure they have accommodations  
17 in place. New managers always kind of, in my words, mess  
18 things up because they come in and they want to clean  
19 things up and see who they can force to do something.

20 So I'll concede that naturally there's  
21 probably stress and anxiety, other factors that go into  
22 it, but I do think that -- again, I'll speak as a parent.  
23 I want my child to have that opportunity, and so if it's  
24 too much, at least he tried and was given an opportunity.

25 So, you know, again, I would rather have a

1 person with a disability address that question, and if we  
2 had some -- and that would be a statement that I would  
3 say -- I think Mr. Yordy asked a question earlier of, you  
4 know, what we recommend in your recommendations. Any  
5 recommendations you make have to be inclusive of people  
6 with disabilities. Their voice needs to be at the table.  
7 It's way too long to have us speaking for them.

8           Again, I'm an advocate; I'm an attorney; I'm  
9 a parent, but I'm not my son. I want his voice at the  
10 table. So, again, any recommendation as to what there  
11 needs to be, as an advisory committee, that voice has to  
12 be at the table if any changes are going to be really  
13 effective.

14           MS. TRAVER: That's kind of where my  
15 question is coming from. You are advocating to do away  
16 with 14(c). What input have you received from the  
17 community, from people with disabilities, from your  
18 clients that leads you to believe that's the right  
19 decision? That's more so what I'm asking.

20           MR. RICO: Sure. So I'll share something.  
21 In speaking with one of our advocates before I came today,  
22 is that we have folks coming to us who feel stuck in their  
23 current employment situation with subminimum wage; that  
24 they've exhibited or at least they felt they exhibited the  
25 requisite skills to have competitive integrated employment

1 and they don't know how to get out of that.

2           So, again, you have to recognize people who  
3 are calling us are telling us that they feel they're  
4 mistreated or don't have opportunities. The voices we  
5 receive are those who want more opportunity, who want  
6 access to a different job or a more integrated job.

7           So, again, I'm sure there's other voices  
8 that either might speak today, are out there that may feel  
9 differently, but the voices that come to us are those who  
10 have been mistreated, feel that they need access and  
11 they've been denied access by a discriminatory employer or  
12 by a system that may not have truly evaluated their  
13 abilities and then have said that they're not qualified  
14 for services or that they don't qualify for the job. So  
15 those are the voices we receive at the Center for  
16 Disability Law.

17           MS. VOIROL: Arizona's infrastructure  
18 certainly could be strengthened, but there are modalities  
19 and models, specifically, supported employment strategies  
20 and customized employment that would be put in place, and  
21 if done and understood correctly -- it's almost an art of  
22 understanding how to do this with employers and people  
23 with disabilities. Some of those things can be eliminated  
24 up front.

25           Again, we have to strengthen our

1 infrastructure around that and the practice and models,  
2 and we are investing -- our community is investing money  
3 in doing that, moving forward in 2020.

4 MS. FERGUSON-BOHNEE: Patty Ferguson-Bohnee.  
5 Thank you for your testimony today.

6 I have a question with regards to the  
7 assessment, Mr. Rico. I think you mentioned the  
8 assessment process and that currently it isn't necessarily  
9 evaluating can the person do the job. And so moving from  
10 subminimum wage to competitive integrated employment, what  
11 are the criteria that is looked at? And are these -- you  
12 know, how are these assessments done? Are they done  
13 solely by the employer? If you could share some  
14 additional information with regards to that, I think that  
15 would be helpful to our understanding.

16 MR. RICO: Something that I don't have  
17 access to. As I said in my testimony earlier, I don't  
18 know what the assessment's looking at, but what we have  
19 seen are the decisions or the conclusions from some of the  
20 evaluators that aren't inclusive of considering the  
21 accommodations.

22 So we've received callers who are clients of  
23 Voc Rehab who identified employment goals. The evaluator  
24 that VR has contracted with reached a conclusion that they  
25 are not employable, but it's really obvious that the

1 person has not evaluated accommodations, has a dated view  
2 of people with disabilities and their abilities and then  
3 have just, in summary, reached that conclusion, and we  
4 see -- this person that I'm thinking about right now  
5 luckily is no longer performing this job and so we don't  
6 see that anymore, but we knew if his name popped up on an  
7 intake, the conclusion was going to be a person was  
8 unemployable due to their disability.

9           So the actual assessments, that would be a  
10 question for VR or maybe Susan may know too what the  
11 assessment is looking at, but I can answer one of the  
12 questions you had there. It's not done by the employer.  
13 The employer hopefully is not running someone through a  
14 test unless that's what they traditionally do. Because  
15 under the Americans with Disabilities Act, you're not  
16 supposed to screen someone out by subjecting them to  
17 different terms and conditions, but again, if that's the  
18 ordinary test that they're giving someone to perform  
19 certain tasks, sure, they can do that.

20           But we've seen employers sometimes see a  
21 disability come up during an interview or application and  
22 subject someone to things that are un job-related but will  
23 then just test the extent of the disability, and then that  
24 screens the person out, and then we're fighting for them  
25 to get back in because that was obviously a discriminatory



1 nature.

2 So I'll stop there and let Susan address the  
3 assessments that's being performed.

4 MS. VOIROL: I believe that J.J.'s talking  
5 mostly about like paper and pencil, if you will,  
6 evaluations where -- vocational evaluations or educational  
7 evaluations, psychological.

8 Some of the other things voc rehab has, if  
9 I'm not mistaken, and I apologize if I'm saying something  
10 incorrect, but I think over 200 services that one can  
11 access in voc rehab, and things like work adjustment  
12 training and trial work experience are actual  
13 feet-on-the-ground sort of assessments within their  
14 program that helps them understand if a person, you know,  
15 comes to work on time, is doing their tasks.

16 Our DDD system, unfortunately, they're not  
17 speaking today, but I will speak for them very quickly.  
18 They have a service called Transition to Employment that  
19 often can be a piece of an assessment people are helping  
20 them with. It covers, I think, 16 or 17 modules of a  
21 person's life.

22 We have a new value-based purchased service  
23 in VR, in our Medicare program called Career Prep  
24 Readiness. The problem with it, it's very specific to  
25 people who are already in subminimum wage. However, our

1 state has not really -- and I don't want to -- others can  
2 speak on this better, but we haven't funded it well and  
3 looked at it being more of a one-on-one service.

4           When you're trying to get someone with  
5 significant disabilities into the community, you can't do  
6 it in -- group work is not ideal, and our state hasn't --  
7 I don't know if they've not recognized that. We haven't  
8 been always in those conversations to help them understand  
9 our rates need to change, and not in voc rehab  
10 necessarily, but in DDD, to really incentivize people to  
11 do competitive integrated employment.

12           Our state continues to fund other  
13 center-based groups, supported some of these other things  
14 we're talking about at these rates that is not  
15 incentivizing them to consider competitive employment.  
16 They are a business. They have to keep their business  
17 open. So there's always two sides to the story.

18           What I would say about all of that is the  
19 piece that I think sometimes is missing, no matter that we  
20 have 200 services in front of us, is the VR counselors,  
21 the DDD support coordinators, case managers, we have to be  
22 more person centered; we have to be individualized and do  
23 informed choice. That's the piece that's sometimes  
24 missing.

25           We don't learn that necessarily in school,

1 and sitting in front of someone and letting them talk  
2 about their dreams, supporting them is not always what we  
3 do. We often look at we need to go through this step; we  
4 need to do this; oh, you need to go trial work and then  
5 you need to do this; oh, you need to go through these  
6 steps before you get to competitive.

7           And that's the sort of culture steps that  
8 our state has to take. That's where we see change.  
9 People should not have to go through steps, and in  
10 Arizona, I think we're heavy on that. We're heavy on  
11 you're not ready; you're not ready; you're not ready, and  
12 I don't think that can be -- always be our choice and I  
13 think we need to really hone in our practices on being  
14 person-centered and really helping people make those  
15 choices for themselves.

16           MR. RICO: I'll just add on that last  
17 point -- I'll put my dad hat on -- I mean, from the moment  
18 you have a child with a disability you've identified, the  
19 questions and the evaluation are the extent of the  
20 disability, and they're driving home that they're  
21 disabled; they have these limitations; this is their  
22 future.

23           And so it's not about kind of planning for  
24 employment. It's about qualifying for services or running  
25 through and checking boxes and so what -- I mean with our

1 support coordinator, they're in and out in ten minutes.  
2 We don't have the discussion. I bring my son in and make  
3 him sign in as a participant at the meeting because he is,  
4 and we're talking about his services, but it really has to  
5 start early to have that discussion and know that these  
6 children are part of the work force.

7           And so, again, wearing my dad hat, I know  
8 it's difficult, as a parent, to hear all those things, and  
9 then at the -- then the next meeting, two meetings, I'm  
10 sure we're going to start talking transition. So my kid's  
11 sitting there and hearing these evaluations that he can't  
12 do certain things and then they ask him what do you want  
13 to do? Well, my kid's going to tell you what he wants to  
14 do, but some kids may say, well, I've heard for my whole  
15 life I can't do certain things so my expectations or my  
16 vision of what my future holds is maybe lower than it  
17 should be.

18           So, again, I agree with Susan, and knowing,  
19 as a dad, I want my son to be a voice at the table and  
20 that's why I include him, even for 15 minutes.

21           MS. VOIROL: It's really important to  
22 remember that it starts when they're born and that  
23 parental -- we never blame, but parental expectations,  
24 research shows, that is the number one -- what their  
25 expectations are is the number one indicator where their

1 children will go.

2 I think everyone in this room -- at least I  
3 can tell you that I am where I am because of expectations.  
4 So we tell family it's not -- again, we have to teach them  
5 and help them understand and feel safe and eliminate the  
6 fears. You can't keep -- I mean, if you don't have the  
7 expectation or look at your child that they can work and  
8 be employed -- and every person that I've ever spoken to  
9 with a significant disability and I ask them how -- what  
10 was -- why are you where you are, because my mom said this  
11 is a tough world and I'm going to have to go -- I'm not  
12 going to be -- I'll be left to the wolves if I don't, you  
13 know, pull myself up. You know, I shouldn't look  
14 different and be so different. So the expectations that  
15 we put upon children in our education system have got to  
16 increase with support and education.

17 MS. FERGUSON-BOHNEE: Thank you. I just  
18 have a follow-up, because the reasonable accommodation was  
19 mentioned, and I'm wondering in the assessment, is that  
20 taken into account? Or if you don't know, if you have a  
21 recommendation with regards to under -- since there is the  
22 ADA in place.

23 MR. RICO: I've seen on psych evals that  
24 address accommodations and their suggested accommodations  
25 for employment which could be technology, additional

1 training; I have seen that in the assessments, and  
2 translating that to an employer is important.

3 I think there's a gap on a medical diagnosis  
4 or that kind of form and then translating that into going  
5 to your employer and saying I need reasonable  
6 accommodations. I would never recommend that an employee  
7 go and drop that neuropsych eval on their desk because  
8 you're not going to get employed or you're going to get  
9 terminated the next day, and I hate to be that blunt, but  
10 I've seen that happen.

11 And so, again, I've seen assessments that  
12 address accommodations. I think that there needs to be  
13 further partnership because, again, those are diagnostics.  
14 They're not necessarily -- and there could be assessments,  
15 and I'll let Susan address assessments that specifically  
16 go to accommodations.

17 But, again, I said earlier we need to move  
18 away from those medical models, and so if there are  
19 non-medical models that particularly focus on employment,  
20 then we need to make sure that these folks who are  
21 evaluating are trained, have access to resources like the  
22 job accommodation and others that list a whole host of  
23 accommodation ideas for every single disability that we  
24 can think of.

25 And so I'll stop there and ask Susan to

1 speak if there are assessments that address  
2 accommodations.

3 MS. VOIROL: I have to believe -- I'm more  
4 going in my world of technology. We have a lot of  
5 assessments around assistive technology which is often the  
6 accommodation, I mean not always. So, yes, Voc Rehab  
7 funds those types of services, as well as allowing people  
8 to get assessed if they need to. School districts as well  
9 are supposed to be doing that when appropriate.

10 Accommodations itself, I don't know that I  
11 can speak to that wholly in assessment. I think often  
12 that comes once the person -- we may know something ahead  
13 of time. If someone happens to be using a wheelchair,  
14 maybe they're going to a desk that raises.

15 Sometimes you don't know what the  
16 accommodation is until the person begins working, and  
17 that's where the Voc Rehab staff as well as our job  
18 coaches and providers will help assess and then work with  
19 the employer and the employee to make sure those things  
20 are in place.

21 It's not as common as one would think. It's  
22 not as expensive either, and sometimes it's a very, very  
23 minimal accommodation that makes the person -- to level  
24 the playing field.

25 CHAIRMAN VAN ASSCHE: Thank you. And I want

1 to thank our panelists and let you know your statements  
2 are very valued and of course they're going to be included  
3 in the advisory memorandum.

4           So, Mr. Rico, I just want to give you an  
5 opportunity -- I know earlier you mentioned -- you spoke  
6 about Walmart perhaps not being the ideal employer. I  
7 just want to give you an opportunity to clarify that maybe  
8 they're not the only not-ideal employer, and if you wanted  
9 to explain why you would consider them not a model  
10 employer for the disabled community and specifically  
11 14(c). I just wanted to give you that opportunity.

12           MR. RICO: I was hired because of a  
13 discrimination lawsuit against Walmart who discriminated  
14 against two young deaf members. I guess I wouldn't have  
15 this job if that didn't happen. They just gave me lot of  
16 cases to handle. So that's why I mention them.

17           Are there -- I don't know if you're asking  
18 me to out other bad employers?

19           CHAIRMAN VAN ASSCHE: I want to give you the  
20 opportunity to speak on that, so you understand, when your  
21 statements are included in the report, you're not  
22 surprised.

23           MR. RICO: No. I would stand by exactly  
24 what I just said; that, you know, Walmart has been an  
25 adversary for the Center for Disability Lw for many years.



1 I do think they have improved in some areas, but the  
2 reality is when I was hired 18 years ago, it was the  
3 result of two young deaf men who were discriminated  
4 against. 14 years later, we had a very similar lawsuit.

5 So there needs to be improvement not only by  
6 the Walmarts of the world. Again, I use Walmart because  
7 they're an example in the front of my mind, but again,  
8 there are good employers out there. But you also have to  
9 recognize the calls that we receive are from people that  
10 are discriminated against by an employer.

11 So, again, the 18 years of phone calls  
12 saying this employer didn't do what was right is what  
13 comes into our office. So you have to recognize our role  
14 as advocacy as a law firm, that we're addressing those  
15 wrongs and advocating for the person with the disability.

16 So, you know, again, I do believe there are  
17 good and bad employers out there. We need more good  
18 employers and making sure they're accommodating,  
19 effectively accommodating the people with disabilities and  
20 engaging in the legally required interactive process.

21 CHAIRMAN VAN ASSCHE: Thank you to our  
22 second panel. Really appreciate your time and your  
23 comments and they will be very valuable to our report.  
24 Thank you.

25 Thank you, everyone. We will begin with our

1 third panel. This is the employer perspectives panel, and  
2 on this panel we have Mark Jacoby with Gompers and  
3 Jennifer Baier with Valley Life. I understand Mr. Jacoby  
4 has a PowerPoint, so we will begin with Mr. Jacoby.

5 MR. JACOBY: Madame Chair, members of  
6 the Commission, thank you for the invitation to be  
7 here and thank you for taking the time to discuss this  
8 very important subject.

9 I believe that only by listening to  
10 differing opinions in a respectful setting can we come  
11 to the best possible outcomes for everyone, especially  
12 those who have the most significant disabilities.

13 My name is Mark Jacoby. As the  
14 president and CEO of Gompers, I would like to state  
15 for the record on behalf of myself and my organization  
16 that I am fully in support of retaining Section 14(c)  
17 of the Fair Standards Labor Act because we believe  
18 that all individuals, regardless of the significance  
19 of their disability or their productivity levels  
20 deserves the opportunity to thrive and succeed at  
21 employment.

22 Formed in 1947, today Gompers, a  
23 501(c)(3), serves 500 adults and children with  
24 significant intellectual and developmental  
25 disabilities. Our three locations in Phoenix,

1 Glendale and Peoria support our program participants  
2 through a private school, adult day programming,  
3 in-home services, employment services, transportation  
4 and comprehensive assistive technology program.

5           Because 14(c) is so critical to the  
6 success of so many of our members, a bit more about  
7 our employment program. When we opened our employment  
8 services campus in 2009, we were serving approximately  
9 a 120 people in center-based employment and maybe a  
10 handful in group-supported employment. Today only a  
11 couple dozen individuals work in our center-based  
12 employment with everyone else working at one of 15  
13 different community integrated, group supported  
14 employment sites.

15           We also have a growing number of people  
16 working independently in the community. This context is  
17 important as we move to the questions around 14(c) and the  
18 real reason we're here today: the people who benefit from  
19 it.

20           I want to begin with the fact that I'm  
21 actually challenged even to call this a subminimum wage.  
22 Using the term immediately lends itself to painting a very  
23 negative picture of those who have the certificate and  
24 those who earn money under it. This is no different than  
25 what we've done to demonize the term sheltered workshop.

1 I believe a more accurate term is  
2 production-based training wage. Why? Because the wage is  
3 not based off of minimum wage but a prevailing wage. More  
4 importantly, no one is limited to earning less than a  
5 minimum wage.

6 An increasing number of individuals at  
7 Gompers are earning at or above the prevailing wage while  
8 utilizing 14(c). Our team talks with every member about  
9 what each part is worth and how many they need to complete  
10 to make a specific amount of money. Our staff is  
11 constantly encouraging our individuals to do more than  
12 yesterday.

13 Interestingly, Mark Botterbusch, Gomper's  
14 Employment Services Director, and I had a debate over  
15 whether we should move someone to minimum wage once their  
16 productivity hit a certain level. Mark correctly argued  
17 against doing this, finally convincing me when he said why  
18 should we penalize people whose production means they are  
19 making more than minimum wage.

20 One of the things I frequently hear is that  
21 if we eliminate 14(c), it will lead to greater employment  
22 opportunities for people with disabilities. The problem  
23 is statistics are available that frequently do not bear  
24 this out; most importantly, for those with significant  
25 intellectual and developmental disabilities.

1           First off, my statement where statistics are  
2 available is telling. It seems counterintuitive to think  
3 if the statistics were as overwhelmingly positive as some  
4 might lead us to believe, that we would not be touting  
5 them more. Instead, this is a sample of what I see when I  
6 try to find the limited information.

7           When Maine ordered a phase-out of  
8 center-based employment starting in 2008, two-thirds of  
9 individuals were unable to find other paid positions,  
10 according to a June 2015 study by George Washington  
11 University. This has led to Maine's unemployment levels  
12 for people with disabilities being five percentage points  
13 higher than the national average. As troubling,  
14 enrollment in day and other programs soared from 550 to  
15 3,178.

16           In Vermont, when similar steps were taken,  
17 the percentage of working age people in supported  
18 employment dropped from 39 percent to 36 percent. The  
19 average hours worked per week dropped from 15 hours to  
20 nine hours. Clearly, much more work needs to be done in  
21 the statistics in those states that have eliminated 14(c)  
22 or center-based employment, but the initial reporting is  
23 challenging at best; going backwards, at worst.

24           This is especially true for those who have  
25 the most significant disabilities, the individuals that

1 Gompers serves. Telling people who enjoy the same  
2 societal gains from work that we all do: monetary  
3 independence, socialization, greater self worth, that  
4 their endeavor is not valid and should go back to a day  
5 program, volunteer or return home because they simply  
6 don't produce at a high enough level is the antithesis of  
7 what we should be trying to accomplish.

8           What we're really talking about though are  
9 the individuals who have gained tremendous benefit under  
10 14(c). We hear that because Gompers has a 14(c)  
11 certificate, the members are stuck in a miserable job  
12 forever, have no chance of advancement and given the  
13 choice, they would run out of that program as fast as they  
14 could. But is that really the case?

15           Well, how about we ask Regina. Regina's  
16 rise at Gomper's has been meteoric, and she says it's all  
17 because of the support she received every step of the way.  
18 Regina actually began in our adult day program but  
19 realized she wanted to try that employment thing, and so  
20 she transitioned to our center-based employment program.

21           It was obvious that Regina had some  
22 employment skills that still needed work, but more  
23 importantly, she had the desire to make things happen.

24           Progressing on to group-supported  
25 employment, Regina continued to refine her skills and

1 began inquiring about someday working in the community.  
2 That is why no one was surprised when Regina stepped  
3 forward, having heard about an opening for a  
4 group-supported employment staff position. After going  
5 through the interview process, Regina's dream was realized  
6 and she became a Gomper's employee.

7 Or maybe Alfred. Alfred began working in  
8 center-based employment because he felt that was the best  
9 place for him. But as he began to do more job  
10 exploration, he realized that maybe he could work in the  
11 community. Then on a job exploration outing, he saw an ad  
12 for AMC Theatres, and after talking with the manager, he  
13 was hired.

14 When Alfred decided he didn't like working  
15 at the theater anymore, he didn't just quit, because of  
16 the lessons that he had learned while in center-based  
17 employment and group-supported employment. Instead, he  
18 worked with the Gompers team to find a job at the Fry's  
19 courtesy desk close to home.

20 Or maybe Shane. Shane's trajectory isn't  
21 typical for someone with autism, but isn't that what is  
22 great about being given opportunities? Shane was working  
23 in center-based employment, often feeling uncomfortable  
24 about being around people and fully interacting with them.  
25 That is why we were surprised when a position at our

1 reception desk became available and Shane asked if he  
2 could try. Shane not only flourished. He excelled.

3           Recently, Shane learned that we were  
4 starting a new group-supported employment site at an  
5 engraving company, Refresh Glass. Again, Shane asked if  
6 he could try and, once again, he excelled. The story  
7 doesn't end there. Shane did so well that Refresh Glass  
8 hired him on as an employee, now working 20 hours a week.

9           I can also tell you about Matt or William or  
10 Brandon or Windsor or Lori but my time is limited. The  
11 simple fact is this: The members who participate in  
12 Gomper's employment program do so as a choice. They have  
13 the opportunity to try any job they want. They have  
14 ongoing opportunities to try working in the community.  
15 They have the opportunity to do job exploration. They  
16 have the opportunity to earn as much as they would like  
17 and, yes, they have the opportunity to leave Gompers and  
18 get a job on their own, but they have a choice and they  
19 are making it.

20           Now, even though my support of 14(c) is  
21 unwavering, I am not saying it is perfect. I think in  
22 some cases, we have strayed from the initial intent of the  
23 legislation. 14(c) has become unwieldy, too broadly  
24 defined and needs remediation.

25           Therefore, I would like to recommend four



1 areas of the 14(c) legislation that I believe should be  
2 looked at and possibly modified. Recommendation one:  
3 Reevaluate the appropriateness of the business  
4 establishment list and patient worker list. In preparing  
5 for this presentation, I read many an advocate's editorial  
6 on why 14(c) should be eliminated. One of the items that  
7 I was struck by was the business establishment list and  
8 the patient worker list.

9           While it is true that these two categories  
10 have a far smaller number of certificates than other  
11 areas, it was nonetheless astonishing to hear that  
12 businesses such as state and local health care  
13 institutions, Chili's and Quality Inn Hotels have 14(c)'s.  
14 Maybe there are good reasons for this, but on the surface,  
15 that seems counterintuitive to the original intent of the  
16 legislation.

17           Recommendation two: Greater oversight and  
18 stricter enforcement. A common complaint I agree with is  
19 that 14(c) certificates lack sufficient oversight. Every  
20 three years, Gompers completes a lot of paperwork to renew  
21 our 14(c), then turns it into an understaffed and  
22 overworked group of reviewers. How do I know they are  
23 understaffed? When we renewed our certificate back in  
24 2015, it took eight months to hear back.

25           More recently, we connected with the

1 Department of Labor Office in Chicago to speak with them  
2 about an issue and we were told we would receive an answer  
3 not in weeks but in months. And once we get our  
4 certificate, we don't hear from or see anyone for three  
5 years unless there is an issue.

6 This is clearly a problem, because when  
7 situations arise where an agency misuses 14(c) to a level  
8 that it makes it way into the press, the story is so  
9 egregious that it is used by 14(c) opponents to paint all  
10 providers under the same brush. More rigorous oversight  
11 would assist in catching these problems sooner and could  
12 also be used to point out the fact that most agencies  
13 using 14(c) are doing so in the best interests of the  
14 numbers.

15 Recommendation three: Reexamine who is  
16 eligible to work under 14(c). One of the greatest faults  
17 of 14(c), I believe, is the way in which its reach has  
18 expanded. We've gotten away from the dictum of disabled  
19 for the work being performed. In too many cases, it's  
20 become a catch-all for anyone with a disability, and that  
21 is wrong.

22 I can think of jobs that even those with the  
23 most significant disability could complete and, yet, they  
24 work under 14(c). In addition, I can think of individuals  
25 who were labeled disabled but were as capable as any

1 able-bodied individual and, again, worked under the  
2 auspices of 14(c) certificate.

3 We need to ensure that the only people who  
4 benefit from the 14(c) certificate are those who would  
5 more than likely never have another chance to try  
6 employment.

7 Recommendation four: Time limited. I  
8 struggle with this last suggestion the most because I know  
9 it won't be popular and, more importantly, how do we  
10 determine what is an appropriate time limit? Despite  
11 these reservations, I do believe a conversation around  
12 this issue needs to occur.

13 In too many cases 14(c) is no longer a  
14 training wage but a destination. If we're going to say  
15 that 14(c) is honestly only being used to assist  
16 individuals as they build skills, then it probably  
17 shouldn't go on forever. Again, though, what's an  
18 appropriate time limit: One year? Three years? Five  
19 years? Ten years? Depending on the individual, the  
20 answer may be yes, and it seems punitive to arbitrarily  
21 pick a number. Despite this, for me, the question is not  
22 should we do this but how do we do this.

23 As things stand today, 14(c) has a place for  
24 a specific group of individuals who, without it, would not  
25 have the opportunity to gain employment. Arizona's

1 employment services venue simply is not sufficiently  
2 funded or individualized enough to fully support large  
3 numbers of individuals with significant intellectual and  
4 developmental disabilities.

5           Through the hard work of Arizona's  
6 Employment First work group, Arizona's chapter of APSE and  
7 a partnership between service providers and state  
8 agencies, we are making strides in the right direction.

9           I believe that legislation such as the WIOA,  
10 which restricts placement into subminimum paying jobs  
11 until other avenues have been explored, are appropriate  
12 first steps, but until we truly have an environment where  
13 everyone who wants to work can flourish, let's not tear  
14 away choice for people who, when fully informed, are happy  
15 and productive where they are. They would not want to be  
16 forced into anything else.

17           Thank you for your time. Be happy to answer  
18 any questions.

19           CHAIRMAN VAN ASSCHE: Miss Baier.

20           MS. BAIER: Thank you, Madame Chair and  
21 members of the Commission. Thank you for the opportunity  
22 to speak today.

23           Established in 1947, Valley Life is a  
24 community-based not-for-profit organization providing  
25 services to individuals with disabilities. Our vocational

1 services division of Valley Life provides work adjustment,  
2 work experience, job development and placement, job  
3 support and retention services, work assessment and  
4 community employer and business outreach services  
5 throughout Maricopa County.

6 Valley Life's vocational services division  
7 serves over 300 individuals on an annual basis and is  
8 committed to assisting individuals with disabilities reach  
9 their individual employment goals.

10 Valley Life offers a diverse array of  
11 programs within our vocational services, community-based  
12 services, integrated community employment training, group  
13 community enclaves, situational assessments, work  
14 adjustment training, work readiness training; again, job  
15 development and placement, community job coaching and  
16 other supports needed to maintain employment.

17 Valley Life strives to maximize our  
18 employment programs and services to meet the unique needs  
19 of each individual we serve. At Valley Life, our mission  
20 is to enhance the quality of life of people with  
21 disabilities.

22 We firmly believe that all individuals with  
23 disabilities are entitled to the following: equal  
24 opportunity with access to services and support and  
25 administration of programs in the most integrated settings

1 appropriate, full participation in society based on each  
2 individual's self determination and informed choice, the  
3 choice to live independently and also economic  
4 self-sufficiency.

5 All of our services and supports are  
6 designed to complement each individual's strengths,  
7 abilities, capabilities, needs and interests. We strive  
8 to build independence and enhance community participation.

9 Valley Life believes work is the cornerstone  
10 of our mission. It is a valued and valuable activity for  
11 both the individual and the broader community. Work  
12 provides benefits far beyond the obvious, which is earning  
13 money. Work helps individuals achieve independence and  
14 economic self-sufficiency while also providing a sense of  
15 purpose, accomplishment and satisfaction.

16 Individuals are empowered to take full  
17 advantage of their potential through increased  
18 independence and inclusion in their community. We support  
19 the ability of all individuals to make informed choices  
20 about the service they receive.

21 Sometimes due to their disabilities, some  
22 individuals with IDD may not pursue alternate employment  
23 services because they are unaware of them or because they  
24 do not even realize they have choices. An informed choice  
25 to us is including but limited to receiving adequate

1 information about all options, the opportunity to explore  
2 and discover options, sufficient resources to support  
3 their choices, willingness and ability to accept the  
4 choice, willingness and ability to accept the reasonable  
5 risk associated within the choice and a review of all  
6 relevant options considered, consistent with the  
7 capabilities of each individual involved in making that  
8 choice.

9 All individuals should feel empowered to  
10 maximize their own potential through the provision of  
11 services and supports needed to increase independence and  
12 promote community inclusion. Consistent with this right  
13 of all individuals with disabilities to make informed  
14 choices, Valley Life supports a full spectrum of  
15 community-based employment opportunities, including  
16 competitive integrated settings, self-employment and work  
17 crew group or enclave settings in the community, with the  
18 support of vocational rehabilitation staff, including  
19 services for job stability, job security and structured  
20 employment service and supports often, for us, including  
21 door-to-door transportation to and from the work site.

22 Valley Life supports federal policy Section  
23 14(c) of the Fair Labor Standards Act which facilitates  
24 employment options for all individuals regardless of the  
25 ability to meet competitive productivity standards.

1           Our experience has been varied, with some  
2 individuals choosing to work in a work crew enclave  
3 setting temporarily in order to develop their job skills,  
4 make determinations related to their job interests and to  
5 address other issues that may affect successful transition  
6 into competitive integrated employment settings.

7           Other individuals have chosen to remain in  
8 long-term work group settings because it is a better match  
9 with their strengths, interests, abilities, desires and  
10 specific ongoing supports and services they want or  
11 require.

12           In agreement with the current direction of  
13 federal legislature and policy, Valley Life supports the  
14 dissolution of sheltered employment settings. We have  
15 seen limited progress for many individuals engaged in this  
16 type of employment setting, as well as the ineffectiveness  
17 of these programs to help develop meaningful employment  
18 skills that would promote progress into competitive  
19 integrated settings in the community.

20           The model of train-in-place is outdated, and  
21 we support the elimination of this type of setting, along  
22 with the ability to use the 14(c) certificate to pay  
23 individuals that are working in a sheltered non-integrated  
24 setting.

25           Our concern lies in the possibility of



1 elimination of the 14(c) certificate as an option for  
2 individuals who have chosen to work in community-based  
3 work crew group settings. We believe that the elimination  
4 or phasing out of the special minimum wage may result in  
5 many of the individuals that we, as well as other  
6 community service agencies, serve receiving no wages at  
7 all instead of the special minimum wage and thus denying  
8 them both the tangible and intangible benefits of working.

9           With the rising minimum wage, which is  
10 currently \$11 an hour and will be \$12 in January 2020 for  
11 Arizona -- it's also higher in our northern part of the  
12 state. I think it will be \$15 in the next year or two.  
13 We have already seen opportunities dwindle for individuals  
14 with the most significant disabilities.

15           Once employers determine that basic  
16 production standards and/or productivity goals are unable  
17 to be met, our candidates are often not considered for  
18 current openings. The flexibility to carve out positions  
19 or substantially modify job descriptions has decreased  
20 with increased wages.

21           Section 14(c) of the Fair Labor Standards  
22 Act was created to help those individuals who are unable  
23 to meet standards and perform the essential functions of a  
24 job, with or without reasonable accommodations, to be able  
25 to work and receive the benefits of working.

1           What happens to individuals who want to work  
2 but aren't able to meet current employer standards or  
3 needs? Some of the concerning possibilities are they may  
4 stay at home with little or no integration in the broader  
5 community. They may enter adult day rehabilitation  
6 programs which may not provide the level of independence  
7 or community integration individuals desires or is capable  
8 of.

9           Individuals may ultimately be denied the  
10 benefits of working, some of which are earned income,  
11 independence, community participation, dignity and the  
12 feeling of self worth. The ability to use the 14(c)  
13 certificate allows community rehabilitation providers to  
14 be creative when working with community employment  
15 partners. Community providers have been able to develop  
16 meaningful partnerships with local businesses that have  
17 developed into employment opportunities for many of the  
18 individuals we served.

19           By using the 14(c) certificate, we are able  
20 to get our work force into the door of that employer which  
21 provides a real opportunity to deal with concerns and  
22 develop accommodations to address deficits and promote  
23 strengths. The employer's investment is low risk because  
24 they are supported by a provider agency and are paying  
25 wages often through the provider that are less than

1 minimum wage. We get it.

2           It sounds amazing to think that there are  
3 employers everywhere that are anxiously awaiting a person  
4 with a disability to be their next great employee.

5 However, the reality is that is frequently not the case.

6           The 14(c) gives us a chance to highlight our  
7 members in a supportive, thoughtful way. Employers are  
8 trying to run a successful business, and the increased  
9 minimum wage requirements have created more barriers to  
10 the individuals we serve. It is becoming harder to get  
11 their feet in the door to be considered.

12           Oftentimes, employers that might be willing  
13 to consider hiring individuals with significant  
14 disabilities truly do not have the additional financial  
15 resources to make a job offer.

16           In a job market which is over saturated with  
17 qualified candidates, 14(c) provides an incentive for some  
18 employers to think about hiring individuals with  
19 significant disabilities.

20           Valley Life supports all efforts to increase  
21 informed and meaningful choice for individuals with the  
22 most significant disabilities, including the opportunity  
23 to work in an integrated employment setting in the  
24 community at or above -- at or above the minimum wage and  
25 self-employment.

1           Additionally, we support efforts to enhance  
2 compliance and enforcement of the 14(c) through increased  
3 oversight and improved training for certificate holders.

4           We believe the following enhancements to the  
5 Section 14(c) of the Fair Labor Standards Act may help  
6 alleviate ongoing concerns: Looking at establishing an  
7 advisory committee through the Department of Labor wage  
8 and hour division. This committee would include community  
9 rehabilitation providers, such as ourselves, to review the  
10 current administration of the Section 14(c) and would make  
11 recommendations on streamlining the program and enhancing  
12 accountability of certificate holders; increased funding  
13 to enforce wage and hour loss for the DOL Wage and Hour  
14 Division and the Office of the Solicitor; increased number  
15 of on-site inspections to ensure compliance and provide  
16 technical assistance, increased availability of technical  
17 assistance, provided direction by DOL to ensure  
18 compliance; increased penalties for willful violations,  
19 and then finally, improved marketing of the Section 14(c)  
20 program to increase awareness of limitations and benefits  
21 to certificate for the individual's families and the  
22 general public.

23           The ability to use the 14(c) should be  
24 monitored closely. Community providers and employers that  
25 use the certificate should be closely monitored and held

1 accountable. Anyone that understands the importance,  
2 meaning and value of the certificate should be more than  
3 willing to accept greater oversight. We believe the 14(c)  
4 certificate provides a chance for community work for many  
5 of the individuals we serve. It is an opportunity to have  
6 their skills highlighted to showcase their value and  
7 benefit to employees and the community.

8           Until society changes as a whole, the path  
9 to full inclusion will always be harder for those with the  
10 most significant disabilities. The phase-out or removal  
11 of the 14(c) will only create more roadblocks and  
12 challenges for those that truly want to work. This  
13 ultimately leads to exactly what all of us declared we do  
14 not want, and that is, that individuals with disabilities  
15 end up excluded from being participating members of our  
16 society.

17           Thank you for your time today.

18           CHAIRMAN VAN ASSCHE: Thank you. Does the  
19 committee have any questions for our panel?

20           MS. TRAVER: Hi. This is Beverly Traver.  
21 My first question is for you, Mr. Jacoby. You mentioned a  
22 difference between a prevailing wage versus subminimum  
23 wage. Could you please explain what the prevailing wage  
24 is and how that's reached?

25           MR. JACOBY: My point is that we call it a

1 subminimum wage, so the thought is, of course, that you  
2 base the wage, that production wage, off of minimum wage,  
3 but you don't.

4                   What you have to do is you have to do a  
5 survey of employers who do similar work in a  
6 geographically -- I mean, we couldn't call up Fargo, North  
7 Dakota and see what a flower shop pays their staff. We  
8 have to look around Glendale, using that example, what  
9 flower shop owners pay their staff, and then we base our  
10 wages off of that.

11                   So minimum wage right now is 11 bucks an  
12 hour. Nobody's paying 11 bucks an hour if they're in a  
13 competitive business right now. They're paying above  
14 that.

15                   So we -- so I can do simple math. We do a  
16 survey and we get somebody who's at 11.50, somebody who's  
17 at 12.50 and somebody who is at 12. The wages are based  
18 off of 12 bucks an hour because that's an average of the  
19 three. That's really over simplified but --

20                   MS. TRAVER: Just one follow-up question.  
21 You mentioned that you saw it problematic that  
22 organizations like Chili's have a 14(c). Can you explain  
23 why, why that's problematic?

24                   MR. JACOBY: Well, it just seems  
25 counterintuitive to me. You know, the whole purpose of

1 14(c) is to be a training wage. I don't know all the ins  
2 and outs of that. When I was looking at the list on here,  
3 I'm seeing Wienerschnitzel and I'm seeing flower shop and  
4 I'm see Hotel 6 and stuff like that I think that it raises  
5 questions. It's easy then to go why is a for-profit  
6 company paying at less than a minimum wage when all of  
7 their other employees are being paid at minimum wage?

8 I think from a public standpoint, from a  
9 perception standpoint, it is very easy then to take that  
10 brush and say, well, you're doing it to take advantage of  
11 that. So if we're going to bring it back to a true  
12 training wage, I think -- I just think it needs to be  
13 looked at.

14 MS. BROWDER: This is also for Mr. Jacoby.  
15 This is Rebekah Browder. You stated that you think 14(c)  
16 is unwieldy. Can you describe what you mean by that?

17 MR. JACOBY: I think it goes back to the  
18 statement I made about the fact that I think disabilities  
19 fall under it. We've gotten away from that disabled for  
20 the work being performed. That's a really important part  
21 of this, because I can have somebody -- I can have  
22 somebody who's blind, you know, and yet they may be able  
23 to do every single part of that step with some  
24 accommodations. We've gotten away from that.

25 You know, I think that we need to narrow it

1 down to people who are truly disabled for the work being  
2 performed which comes back to what Jen talked about, what  
3 I talked about which is that oversight. We've got -- I  
4 agree with Jen a hundred percent. I know Valley Life  
5 would throw open their doors to come in -- to have anybody  
6 come in, review their program. I'm not suggesting that,  
7 but I'm saying they would be. Gompers would be as well.  
8 Come in, see what we're doing, but I think that it's --  
9 it's -- the reach of 14(c) has just become this catch-all  
10 for everybody, instead of folks who can truly -- that's  
11 the way they're going to benefit and get their foot into  
12 the door for employment.

13 MS. FERGUSON-BOHNEE: Hi. Patty  
14 Ferguson-Bohnee. You used some terms that I'm not  
15 familiar with, and I just wondered if you could help us  
16 out with that language.

17 You mentioned center-based employment and  
18 then I think that Miss Baier mentioned work crew enclave  
19 settings and long-term work group settings, and then also  
20 center -- and so you said center-based employment, and  
21 then sheltered settings was mentioned.

22 So it would be helpful to us to know what  
23 that means and one of them was recommended to be  
24 eliminated but not the others, and so understanding the  
25 differences I think would be helpful.



1 MS. BAIER: Typically for us -- and Mark can  
2 jump in at any time -- center-based employment settings  
3 would typically be what most individuals would call a  
4 sheltered workshop. So it is typically on the site of a  
5 provider and large groups of people, and then the work  
6 crews, mobile crews are going to be the group support in  
7 employment settings. So it's going to be a small group of  
8 individuals, maybe two to four or five supported by a job  
9 coach working in the community, so still structured  
10 support but out in the community.

11 MR. JACOBY: The other thing I would point  
12 out with regards to center-based employment too, and it's  
13 one of the complaints at this point with center-based  
14 employment or sheltered workshops, is that primarily the  
15 individuals who are involved in that program, the only  
16 other individuals they see are staff. That's kind of the  
17 push-back. It's not -- it has not historically been an  
18 integrated setting. We're doing some movement on that  
19 with the new CMS rules that are coming in that Susan spoke  
20 about, but historically, it's not been as integrated as  
21 many of the other settings have been.

22 MS. FERGUSON-BOHNEE: So just to follow up,  
23 so the work that y'all are doing is trying to place people  
24 outside of your -- outside of Gompers and Valley Life  
25 which would be different than center-based training? I am

1 just trying to understand.

2 MR. JACOBY: I think the great thing,  
3 whether it's Susan or J.J. or Jen or myself or anybody  
4 else in this room, employment in the community is the  
5 goal. We all have different philosophies. We have  
6 different ideas of how to get there, but for every one of  
7 us -- Susan mentioned the governor signed and we are an  
8 Employment First state. That is something Jen worked on,  
9 I worked on, Kelli and Gina from Opportunity Tree, who are  
10 going to be here in a moment. We all worked on that  
11 because we all believe that employment in a community  
12 integrated site should be the number one outcome for  
13 everybody. We just have kind of different philosophies on  
14 how we get to that point.

15 MR. KIM: David Kim. My question was  
16 already asked by Ms. Bohnee because I wanted to know a  
17 little bit more about the shelter-based employment setting  
18 and what were some -- how you define it, first and  
19 foremost, and what are some negative aspects associated  
20 with it because that's the one single program that Miss  
21 Baier was recommending eliminating, along with the  
22 national movement I guess.

23 MS. BAIER: Thank you, David, and, again, it  
24 goes back to the idea that typically center-based  
25 settings, sheltered settings are not integrated. It's

1 larger groups of individuals with disabilities never  
2 really getting out interacting in the community and  
3 typically not performing jobs that are going to be the  
4 jobs that you find out in a real word workplace.

5           So our support is really using the 14(c) in  
6 some circumstances but using it in work places in the  
7 community so that our individuals are interacting with  
8 other employees that aren't individuals from our program.  
9 So it's small groups, rather than, you know, 30 or 40  
10 people sitting in a room for years and years and years.

11           MR. JACOBY: We just have a different  
12 philosophy. We do believe there is a place, a limited  
13 space, for center-based employment where there is a  
14 benefit to it, where there is an outcome for it, you know,  
15 that we have -- you saw examples up there; that we have  
16 had folks who that's where they began and are now working  
17 out in the community.

18           And, again, it does come back to informed  
19 choice but it means having choices. I don't want us to  
20 get to a point when we start talking about informed choice  
21 but we're not going to have this; we're not going to have  
22 that. I harken back Henry Ford who said you can have any  
23 color Model T you want as long as it's black. That's not  
24 choice. So we believe, again, in limited circumstances  
25 that that is a viable option for some folks.

1 CHAIRMAN VAN ASSCHE: Any other questions?

2 MS. RASSAS: So we're talking about -- this  
3 is Theresa Rassel -- integrating these employees and  
4 making their wage competitive as the goal.

5 I'm curious, if I understand your position,  
6 Mr. Jacoby, that the integration, that that part of the  
7 goal should never happen with this reduced training wage;  
8 that once they're integrated outside of a center, that at  
9 that point, they should be at the point that their wage is  
10 competitive also? Am I correctly understanding your  
11 position?

12 MR. JACOBY: I'm not sure I --

13 MS. RASSAS: Let me ask this a better way.

14 MR. JACOBY: Okay.

15 MS. RASSAS: Is it your position that  
16 somebody working at AMC should not be eligible for a  
17 training wage; that if they get to the point that they're  
18 working at AMC --

19 MR. JACOBY: Oh, I think if AMC has hired  
20 them on as an employee, they should be making minimum wage  
21 or whatever AMC's salary ranges are, yes. If they are an  
22 AMC employee, they should be an AMC employee. We should  
23 not set up a separate class of people just because they  
24 happen to have a disability. If they're an employee,  
25 they're an employee.

1 MS. RASSAS: So it's your position a company  
2 like AMC should not have accessibility to a training wage  
3 temporarily while the person learns the skills and is  
4 producing at a lower level? They should not have access  
5 to that employee -- or that employee should not have the  
6 opportunity to work for them until they are ready to  
7 produce at a hundred percent?

8 MR. JACOBY: I don't think that either,  
9 because I think that -- I think that when an individual --  
10 you know, when we place an individual -- when Alfred  
11 placed at AMC, he clearly wasn't making a hundred percent.  
12 I shouldn't say he clearly wasn't. He wasn't probably  
13 their most productive individual; although, I will say  
14 within his first month, he got employee of the month. But  
15 that's where the supports of Valley Life, that's where the  
16 supports of Gompers -- that's where I go back to my  
17 statement this state -- and not just this state, but I  
18 will talk about this state -- need to ensure that we're  
19 funding the supports that are -- that Valley Life, that  
20 Gompers, that Opportunity Tree can provide our individuals  
21 to ensure that they are successful once they get that  
22 employment out in the community.

23 The training wage gets them to the point  
24 where they are hired. Once they're hired though, they're  
25 an employee but they still may need supports. They may

1 need job coaching; they may need additional job training;  
2 they may need additional supports.

3 MS. RASSAS: So as I understand it then,  
4 your position is this training wage should be available  
5 for some people for a short period, but only -- so limited  
6 in not only who the employee can be but also who the  
7 employer can be more strictly.

8 MR. JACOBY: Right, yeah, I think that's  
9 correct.

10 MS. RASSAS: And so the integration to you  
11 is not an essential part of that training?

12 MR. JACOBY: Oh, no. I think the  
13 integration is essential. I think even as we have --  
14 that's the reason we have group-supported employment  
15 sites, but they're still -- I am still paying for the  
16 individual -- Gompers is, not me -- Gompers is still  
17 paying for the individual at that job site. That's where  
18 that training wage can still come into effect. Do you  
19 want to step in?

20 CHAIRMAN VAN ASSCHE: I will give you the  
21 opportunity to explain if you like.

22 MS. BAIER: I think -- and I think we're  
23 both saying the same thing, is that there's -- using the  
24 14(c) should be something that's done not as frequently as  
25 it appears that it is, looking at some of the statistics.

1 We don't have a large program. We use it -- we have under  
2 30 individuals that are utilizing the 14(c), but I do  
3 think it has a place within the setting of a community  
4 employer.

5           If we had a group-supported employment  
6 setting in an AMC, we would -- we would be using a job  
7 coach to support these individuals, training them on  
8 specific skills, but ultimately, the hope would be that  
9 AMC or Harkins or another movie theater would hire this  
10 individual and be paying them competitively.

11           So we also, like Mark Jacoby said, support  
12 the time-limited use of the 14(c) so that it really is a  
13 training wage as part of the broader idea of getting  
14 individuals ready and getting them into the community, but  
15 that it could be utilized in a community-based employment  
16 setting.

17           MS. RASSAS: Thank you so much.

18           MR. JACOBY: She's smarter than me.

19           CHAIRMAN VAN ASSCHE: Thank you for that and  
20 thank you to our panel.

21           At this time, we will conclude our third  
22 panel and we will break for lunch. We will come back at  
23 12 -- I'm sorry -- at 1 o'clock. It is 12:15 now. Thank  
24 you.

25           (Recess taken, 12:16 p.m. to 1:05 p.m.)

1                   CHAIRMAN VAN ASSCHE: Thank you, everyone.  
2 I hope you all enjoyed your break, and for those of you  
3 just joining us, welcome. As I mentioned earlier, the  
4 focus of our briefing today is to hear testimony to  
5 examine the operation of the 14(c) program in Arizona.

6                   If you're interested in sharing public  
7 comment, please see Carolyn in the back so that we can  
8 announce your name when the open comment period begins.  
9 We will continue with the agenda and we'll hear from our  
10 next panel.

11                   Our next panel is service provider  
12 perspectives. With us we have Kelli O'Toole from the  
13 Opportunity Tree, Gina Griffiths also from the Opportunity  
14 Tree and April Reed from Ability 360. This is a  
15 three-person panel, so we will be mindful of time, and I  
16 will begin with Miss O'Toole.

17                   MS. O'TOOLE: Thank you. Members of the  
18 Commission, thank you for giving us all the opportunity to  
19 present today. I believe all of us presenting have one  
20 goal in mind: the best possible life, opportunities for  
21 the individuals we support. I hope that by listening to  
22 different opinions, the Commission will see the diverse  
23 perspectives and opinions related to the 14(c) discussion.

24                   I am Kelli O'Toole. I have had the  
25 privilege to work in a couple different organizations that



1 support individuals with intellectual and developmental  
2 disabilities, for our state Division of Developmental  
3 Disabilities, and I am now the CEO at the Opportunity  
4 Tree.

5           Opportunity Tree is a 56-year old nonprofit  
6 organization. We are intentional about our vision of  
7 promoting the development of a society that fully embraces  
8 individuals with intellectual and developmental  
9 disabilities through inclusion, advocacy and  
10 opportunities. We provide day programming, in-home  
11 supports, an array of community living options,  
12 transportation and multiple progressive employment  
13 supports to over 300 individuals in Maricopa and Pinal  
14 County.

15           Working in both urban and rural communities  
16 gives us a unique perspective on the diversibilities of  
17 local communities to meet the various needs of the  
18 individuals we support.

19           Throughout our organization, we provide  
20 supports to members with a variety of strengths and areas  
21 of need. Our members range in age from 15 to 81, and they  
22 have many different diagnosis ranging from autism to  
23 epilepsy, to cerebral palsy and intellectual disabilities.  
24 Almost all of the individuals we work with have some level  
25 of intellectual disability.

1           Our members' needs are individualized and  
2 difficult to lump together. Even when members have the  
3 same diagnosis, we work with individuals who live on their  
4 own, drive a car, hold down a job and only need a few  
5 hours of support to maintain their independence.

6           On the other hand, we work with individuals  
7 who need assistance with bathing, dressing, eating,  
8 mobility and communication. These members rely on someone  
9 else to meet their most basic and personal needs 24 hours  
10 a day, seven days a week, and we work with individuals in  
11 between those two levels of needs.

12           One thing that we hold true for absolutely  
13 every member we work with is that they all have the right  
14 to employment and an array of options to support them in  
15 achieving their employment dreams. Of course, we are here  
16 today to focus on the employment supports our members  
17 choose to participate in and the civil rights implications  
18 of some of those services.

19           We view our programs as a series of stepping  
20 stones on a path to competitive integrated employment. Of  
21 course, competitive integrated employment is the goal for  
22 every member receiving support, but there are multiple  
23 routes to achieve that outcome.

24           Some members are able to get a job and we  
25 can provide intermittent job coaching support. Other

1 employment training options include community integrated  
2 enclaves where a member receives continual support from a  
3 job coach. We also offer pre-employment transition  
4 services and transition to employment services to allow  
5 members the opportunity to explore career options and  
6 build skills to prepare them for the workplace. Even with  
7 all of those options, some members are ready to use their  
8 skills to earn income while still refining those skills  
9 for community employment.

10 Our employment training center -- and I'll  
11 just clarify, also known as sheltered workshop or  
12 center-based employment. We call it our employment  
13 training center -- gives them the option to continue  
14 building skills to promote success when they're ready to  
15 transition to a more independent setting.

16 We are here today to share with you our  
17 members' work experiences and their opportunities to  
18 secure competitive employment. All of this is through the  
19 prism of the Americans with Disability Act or the ADA.  
20 The ADA prohibits discrimination and guarantees that  
21 people with disabilities have the same opportunities as  
22 everyone else to participate in the mainstream of American  
23 life which includes employment opportunities.

24 Our organization develops programming and  
25 supports with all of this in mind, focusing on informed

1 choice, promoting integration and increasing  
2 accessibility, an individual's opportunity and autonomy to  
3 perform an action selected from at least two available  
4 options unconstrained by external parties. That's the  
5 definition of the freedom of choice.

6           At the Opportunity Tree, we firmly believe  
7 our 14(c) certificate allows us to give informed choice of  
8 employment options to our members. We believe everyone  
9 deserves to earn a fair wage. The 14(c) certificate  
10 allows us to provide this. Some of our members choose to  
11 be in community employment options, but some of our  
12 members choose to be in our employment training center.

13           An employment training center supported by a  
14 14(c) certificate was never intended to be the end of the  
15 road for employment for individuals. We've had many  
16 individuals over the years graduate to group-supported  
17 employment and competitive integrated employment in the  
18 community, and we're always working to get more members  
19 employed in the community.

20           I'm going to let our director of programs  
21 tell you a little bit more about our programs and the  
22 members that we serve.

23           MS. GRIFFITHS: Madame Chair, members of the  
24 Commission, thank you so much for your time today. As  
25 Kelli said, I am the director of programs at the

1 Opportunity Tree. I think it's really important to share  
2 a little about the individuals that we support across our  
3 array of employment training programs.

4           We support individuals with a variety of  
5 needs. Some of our members have very little confidence in  
6 their skills and they really need time to build that  
7 confidence and work on those skills before they're ready  
8 to go off into the community.

9           Some of our members haven't had much  
10 exposure to employment services and training programs yet  
11 so they need comprehensive skill building. They're just  
12 not ready to jump into the work force. They need more  
13 help than that.

14           We also have members who are in various  
15 levels of supported employment, working mostly  
16 independently with intermittent job coaching. They take  
17 pride in the work they do in the community, and we're  
18 really proud that we have a diverse array of options to  
19 support the members who receive our services.

20           I also am going to go off script and say the  
21 folks we work with, almost all of them have significant  
22 levels of cognitive impairment. So a lot of times, we  
23 talk about employment, we talk about options, we talk  
24 about success stories for people with developmental  
25 disabilities, but they don't always have a cognitive

1 impairment. That's part of what makes our array of  
2 services necessary.

3           So within our diverse population, we have  
4 quite a few members who are a lot older and have a lot of  
5 physical impairments due to age that make it so that they  
6 can no longer compete in the competitive integrated  
7 environment. They don't want to retire. They want to be  
8 productive.

9           We keep talking about our employment  
10 training center as being a stepping stone to competitive  
11 integrated employment, but for some folks, it's kind of  
12 their step back when they're not ready to give up on the  
13 world of work. They want to have a meaningful way to fill  
14 their days. They want the pride of earning an income.

15           We have more than two dozen folks who have  
16 signs of early stages of dementia and Alzheimer's that we  
17 provide support for. The administration in our  
18 organization prior to Kelli coming on board really pushed  
19 for those folks to just retire to go home even though they  
20 didn't want to. So they went home for a while and we saw  
21 their conditions deteriorate and deteriorate.

22           Research shows us that individuals with  
23 Alzheimer's need structure and need meaning in order to  
24 slow the progression of their disease. So luckily, our  
25 assistant director of community living is a strong

1 advocate and kept saying to Kelli let's just try; let's  
2 just try to bring them back. We know they need more  
3 supervision and more oversight and their productivity is  
4 not going to be great.

5           Let's try to bring them back to the  
6 employment training center and give them that chance to  
7 have structure in their day and earn some money, and  
8 everyone that comes back, within a few months, we see a  
9 decrease in the progression of their disease. We see  
10 overall satisfaction and joy again. They're able to focus  
11 on their tasks a little bit longer. They're getting  
12 frustrated with what's happening in their lives less  
13 because they have a purpose, and they're earning money and  
14 they know that's an important part of life that the rest  
15 of us get to enjoy. So there are really valuable reasons  
16 for us to have the employment training center.

17           On the flip side, we've talked a lot about  
18 pre-employment transition services, the new rules under  
19 WIOA, everything that goes on for these younger kids that  
20 are going to come out of school, but we have a cohort of  
21 folks in the middle.

22           Maybe they're in their early and mid  
23 twenties and they came up before these school services  
24 were offered so they didn't receive all those  
25 pre-employment transition skills that are now available,

1 but they want to work. They just don't have -- they  
2 didn't have the preparation before they came to us to go  
3 out into community settings.

4 In that realm, their families aren't  
5 prepared for it. We're talking now to families when kids  
6 are at a younger age to try to get them ready, but between  
7 the fear some of the members have, the lack of skills that  
8 they haven't had the opportunity to build and the fear  
9 that their families had. We need the employment training  
10 center to give them a place to build those skills, to  
11 build that confidence, to let their families see that work  
12 is a viable option. We do have to honor the wishes of  
13 families.

14 So training in the employment training  
15 center is a launching pad for those members to be gaining  
16 those skills. Again, we're not doing this employment  
17 training center as a destination for them. It's a  
18 stepping stone so they can make progressive moves towards  
19 competitive integrated employment.

20 Another barrier that we've been facing, and  
21 I think Jen talked about this earlier, is that the minimum  
22 wage is increasing in Arizona. It's currently \$11. It's  
23 soon to be \$12. When it was \$8, it was a little easier  
24 for us to go to an employer and tell them, hey, we have  
25 this great worker. They're going to show up every day;



1 they're going to do a great job, maybe slightly less  
2 productive.

3                   Now that the minimum wage is \$11, the  
4 employers are demanding more, and it makes sense. You  
5 expect that; they're paying more. So we've had several  
6 individuals who aren't performing the way the employers  
7 want in their integrated work settings and the employers  
8 have said, hey, I can't handle this person anymore. I  
9 don't want them here, even when they're still within one  
10 of our training programs.

11                   So without the option of our employment  
12 training center for them to fall back to and build their  
13 skills up a little stronger, they would end up going into  
14 a day program which is inappropriate. They want to work;  
15 they want to earn money. They just need to continue  
16 building their skills.

17                   So it gives them an option to stay in the  
18 employment arena, keep building skills to get back out  
19 there into competitive employment.

20                   I will tell you specifically about a couple  
21 of our members. We had one young man who's been working  
22 at Southwest Gas. We have a crew that works at Southwest  
23 Gas and assembles the meters, those big heavy meters. I  
24 could never do the job, very physically demanding. Many  
25 of our members love it.

1           We have one young man who thought he'd love  
2 it, and he went out there and he loved it for a little  
3 while, and he stopped loving it, and he said he didn't  
4 want to be there, and then the employer said they don't  
5 want him there.

6           He's coming back into our center-based  
7 employment training center because we need to build his  
8 skills. We need to get him ready for another environment.  
9 It's going to take time, and we don't want him to just sit  
10 at home or in a day program while we take the time to find  
11 the appropriate job for him.

12           We have a young lady who was in our day  
13 program, who would come to her planning meetings and say  
14 she wanted to work. She's ready; in her head, she's  
15 ready, and she does have a lot of skills. Her mom cries  
16 every time you talk about sending her to work because  
17 she's scared. She's scared that her daughter's going to  
18 be exploited or taken advantage of. We know this young  
19 lady is capable of competitive integrated employment, but  
20 we need time to get her mom there.

21           So we worked to get her into our employment  
22 training center a little bit. Let mom feel comfortable.  
23 We're earning income. We're not losing our benefits.  
24 Everything's going okay. Now, she goes into a community  
25 integrated setting one day a week. Again, this isn't the

1 end of the road for her. We have plans to keep working to  
2 get her out there so she has her own job in the community,  
3 but we're slowly building mom's trust and faith that this  
4 is going to be a safe way to do it. If we didn't have  
5 these stepping stones to get there, we couldn't ever get  
6 mom to send her straight out. We've made a lot of  
7 progress.

8 I know one of the other areas you want to  
9 explore is ineffective monitoring. As a service provider,  
10 we do believe that these programs aren't monitored  
11 effectively. The process of renewing the 14(c)  
12 certificate is very thorough. We submit a lot of  
13 paperwork work. As Mark said earlier, in like eight  
14 months, we'll get something back, but we submit everything  
15 and we're comfortable doing that. We understand that the  
16 ability to use the 14(c) certificate's a privilege and  
17 we're happy to have the appropriate documentation to  
18 support that.

19 The lack of monitoring has to do more with  
20 programmatic and implementation fidelity. Fidelity is  
21 critical to the success of our programs. There are a  
22 variety of reasons that we don't have any programmatic  
23 fidelity within our service structure. There aren't a ton  
24 of best practice models available which I think people  
25 have alluded to, spoken already today. There's very

1 little evidence-based research available for us to get out  
2 there. There's a little bit out there, but there's not a  
3 lot.

4           There are limited resources for training for  
5 job coaches, which I think has already been alluded to as  
6 well, and as I think you know, there's limited funding  
7 across the board for all of the supports that we're  
8 provided to get people employed.

9           All these limits make it really difficult  
10 for us to run our employment services the way we want to,  
11 the way we know they should be run and we're not held  
12 accountable to run them that way. So it's probably weird  
13 to hear providers say, hey, we're not monitored enough but  
14 we know that we're not. We're honest.

15           In closing, our 14(c) certificate is an  
16 important tool for us to use to provide effective  
17 comprehensive employment supports to individuals with  
18 intellectual and developmental disabilities.

19           Is the system perfect? No. Are there  
20 opportunities for improvement? Definitely, and we are  
21 always happy to help find those. We do strongly recommend  
22 maintaining a system that allows individuals to build  
23 skills and earn wages when they're not quite ready to be  
24 out there. Thank you for your time.

25           MS. REED: Ability 360 appreciates the

1 opportunity to provide testimony today and thanks the  
2 committee for organizing this meeting.

3 My name is April Reed and I am the vice  
4 president of advocacy at Ability 360. Ability 360 is a  
5 501(3)(c) nonprofit organization and one of 500 centers  
6 for independent living nationwide that were established by  
7 the Rehab Act of 1973, as amended in 1978 to provide  
8 independent living services for individuals with  
9 disabilities and their families.

10 We are different from many organizations  
11 serving Arizonians with disabilities because the majority  
12 of our staff management team and board are people living  
13 with disabilities.

14 We are located at the Ability 360 center in  
15 Phoenix, along with nine other disability related  
16 organizations. We provide a host of programs to support  
17 self advocacy, self determination of individuals with  
18 disabilities and support their efforts to live quality  
19 lives integrated within our community.

20 Some of our programs include employment  
21 support and placement, work incentives and benefits  
22 planning and assistance, independent living skills  
23 instruction, socialization through recreation, self  
24 advocacy and self determination coaching and home care  
25 services so consumers can live independently in their own

1 homes.

2                   As an organization, we believe in  
3 independent living philosophy. We believe that the  
4 opportunity to fully participate in the political,  
5 economic and social life of our community is a basic human  
6 right. The existence of a disability is not in itself a  
7 reason to deny those rights. This philosophy applies to  
8 our views on employment for people with disabilities as  
9 well.

10                   We believe that people with disabilities can  
11 and should have the right to work in an integrated  
12 community setting alongside people without disabilities  
13 and have the right to earn a competitive wage. We believe  
14 that individuals should be provided informed consent and  
15 be given information on all their community employment  
16 opportunities.

17                   We know that many barriers for individuals  
18 with developmental disabilities in working are attitudinal  
19 barriers and low expectations for work potential.  
20 Families and individuals with developmental disabilities  
21 fear losing public benefits if they work too many hours or  
22 earn too much. Programs like the Ability 360 employment  
23 services and the Ability 360 benefits-to-work program are  
24 critical to educate consumers on the work incentives that  
25 are available to them and so they know they do not have to

1 fear the loss of critical health care or other supports.

2 We also know, as we've heard from others  
3 today, that employment proves to be the great equalizer  
4 between people with and without disabilities. A report  
5 released this month by the Arizona Developmental  
6 Disabilities Planning Council entitled *The Power of*  
7 *Disability Employment: The Impact to Arizona's Economy*  
8 found that Arizona ranks 32 out of 50 states in employment  
9 for people with disabilities. We have more work to do to  
10 ensure that people with disabilities have full employment  
11 opportunity.

12 As we prepared our comments today, one of  
13 our concerns is that we do not have a lot of data in  
14 Arizona about the effects of 14(c) certificates. Here's  
15 what we do know: According to the Department of Labor  
16 Community Rehabilitation Program list, updated as of July  
17 1st this year, there are 45 total pending and issued 14(c)  
18 certificates across Arizona.

19 Of the 45, eight were pending as of July 1st  
20 and 37 were issued. Only 33 of the 37 at the time were  
21 paying workers subminimum wage. At the 33 locations that  
22 were using 14(c) certificates, there were a total of 2,088  
23 workers receiving subminimum wage pay. We also know that  
24 of the 45 pending and issued certificates, 27 of the  
25 employers registered at addresses within Maricopa County

1 and 24 employers registered at addresses within cities  
2 with more than 150,000 residents. 14(c) certificate is  
3 not necessarily a rural matter then, as a majority of  
4 certificate-holding employers exist in areas where other  
5 employment services should be available.

6 Here's what we do not know: We do not know  
7 the demographic information of these 2,088 workers, their  
8 ages, their business abilities, et cetera. We don't know  
9 how long each of these 2,088 workers have been receiving  
10 subminimum wage, and if a worker stops making subminimum  
11 wage, why? Did they enter integrated employment? Did  
12 they retire? Are there other reasons?

13 We also do not know what training and  
14 supports for integrated employment have been provided and  
15 whether or not workers wish to retain their current  
16 subminimum wage employment, and we do not know if workers  
17 have been provided regular informed consent on all their  
18 work options.

19 With such limited state-specific data  
20 available to us, we are unable to ascertain what the true  
21 status of subminimum wage workers is in Arizona. We urge  
22 that moving forward, state agencies be available to share  
23 this data with community members and that the community  
24 gather together to evaluate the full impact and current  
25 usage of 14(c) certificates.



1           As a center for independent living, we often  
2 hear from consumers with developmental disabilities and  
3 their families about the successes and challenges of  
4 employment. We continue to hear from our consumers that  
5 state agencies and staff they work with need more training  
6 opportunities to learn how to support and effectively work  
7 with people with cognitive and intellectual disabilities.

8           We hear that current system policies and  
9 procedures support segregation, not self determination.  
10 Consumers and families report that some languish in an  
11 endless cycle of skills training with few moving to  
12 community employment. Our consumers want opportunities  
13 for customized employment that takes into account their  
14 interests, their goals and their skills.

15           We also hear from youth and their families  
16 that while more transition services are available in our  
17 state, there is still a need for additional community  
18 based opportunities for paid and unpaid vocational  
19 experience for youth. We hear that families need more in  
20 depth and early transition planning services.

21           But we also hear successes, like a consumer  
22 with a developmental disability who began at Ability 360  
23 as a volunteer, grew his skills as a self advocate, began  
24 to co-train and present to participants at vocational  
25 centers about self determination and self advocacy and who

1 has also now worked at Target for over 20 years.

2 Or a young consumer with a developmental  
3 disability who came to Ability 360 for socialization and a  
4 peer mentor to help support developing communication  
5 skills has gone on to volunteer and is now working at a  
6 restaurant part time.

7 These successes remind us that meaningful  
8 work has immeasurable value for everyone, including people  
9 with disabilities. It gives purpose, leads people out of  
10 poverty and down the road to financial independence and to  
11 broader choice on career development, education, housing  
12 and more.

13 We believe the time has come for us to have  
14 full transparency in our state data on 14(c) certificate  
15 usage and outcomes. We urge further accountability,  
16 documentation and regular review that each person and  
17 their families were provided informed consent on their  
18 rights for meaningful skill training on all work options.

19 We believe that now is the time for us to  
20 fully commit to system change that views integrated  
21 employment and equal compensation as the final outcome and  
22 best practice for individuals with disabilities. Thank  
23 you for your time and consideration.

24 CHAIRMAN VAN ASSCHE: Thank you very much to  
25 our panel. I will turn it over to the committee if the

1 committee has questions.

2 MR. KIM: David Kim. Miss Reed, can you  
3 explain to us a little bit more about what is meant by  
4 informed consent?

5 MS. REED: To me, informed consent -- as a  
6 social worker, that's my background, informed consent  
7 means that someone has had an opportunity to review all of  
8 their rights and options and that it is done in a formal  
9 way. Typically, we would have a document that all parties  
10 sign, documenting that that person has been provided their  
11 rights. So I know many use the term informed choice,  
12 which I agree with, but I use the term informed consent  
13 because I also want to see that formal documentation that  
14 there has been a regular opportunity where someone had the  
15 right to -- has been given the right to review all of  
16 their options and is documenting that they have made that  
17 choice.

18 MR. KIM: As a follow-up question, what are  
19 some typical options available to these people?

20 MS. REED: So if we were working with an  
21 individual with a developmental disability at Ability 360,  
22 we would first -- we're consumer driven, so we would first  
23 sit down and listen to the person to hear about what they  
24 wanted, what their interests were, what their goals were,  
25 and so that is very individual. And so if someone had a

1 goal of -- as I mentioned in the story, having a peer  
2 mentor or socialization recreation, that would be their  
3 choice to start first working on that goal.

4 I think that what we want is that the  
5 individual has the opportunity to really have their voice  
6 heard, to examine what independence looks like for them  
7 and step-by-step have those supports.

8 We'd also -- when we work with somebody,  
9 there's time frames and goals, have specific time frames  
10 on each one of those goals so that everyone is in  
11 agreement about what will be offered and how long that  
12 individual, for example, will volunteer and what is the  
13 specific goal of that volunteer work.

14 For example, I worked with an individual who  
15 loved animals and wanted to get volunteer experience at an  
16 animal shelter. So we would set a time frame for that  
17 goal, how long she would have that experience. We would  
18 review that goal and then allow the individual to make the  
19 decision about continuing. Do they need more experience?  
20 Are they ready to move on?

21 But because we have a full outcome plan,  
22 we're moving continually towards the ultimate goal of  
23 work, and that individual I mentioned volunteered for a  
24 specific period of time, decided that they were then ready  
25 for a part-time job and then that was our goal to work on

1 that next. So there's always time frames attached to the  
2 goals.

3 MS. TRAVER: Beverly Traver. I have a  
4 follow-up to that. If the person decides that they want  
5 to -- that they're comfortable volunteering and they don't  
6 want to move any further forward with that goal plan  
7 because they're comfortable, is that a possibility for  
8 them?

9 MS. REED: For our views, the center for  
10 independent living, we believe in self determination, and  
11 so it's that individual's choice what independence and  
12 what activities they want, and so volunteering certainly  
13 could be a goal for someone that we work with.

14 I have to tell you that most of the people  
15 that we work with, employment is an ultimate goal. That  
16 might look differently for each person. It may be they're  
17 only able to do part time, maybe they're looking for full  
18 time. But we're working with people that have employment  
19 goals and long-term, different goals about career  
20 development. They want to try and do many, many different  
21 things.

22 And so our job at Center for Independent  
23 Living, working with them is to help them figure out what  
24 are those passions that they have, what are those goals  
25 and then develop a plan so that each one of those goals is

1 met whatever their career development plans on.

2 MS. TRAVER: Beverly Traver again. I have a  
3 question for you, Miss Griffiths. You mentioned that  
4 there was something called a day program, and you  
5 mentioned in certain circumstances it's inappropriate for  
6 people to be placed -- for your client to be placed in a  
7 day program.

8 Can you just explain to us what a day  
9 program is and why you feel it's inappropriate for people  
10 to be placed in that? And I think you mentioned that it  
11 would be an outcome; if 14(c) was done away with, more  
12 people might be placed in the day program.

13 MS. GRIFFITHS: Absolutely. Thank you. So  
14 a day program service funded through the Division of  
15 Developmental Disabilities is predominantly social,  
16 recreational, rehabilitation and personal skill building.  
17 Everybody has a certain level of goal that they're working  
18 on, but it's never related to employment. It's related to  
19 sort of activities of daily living and independence and  
20 those building social skills. We focus a lot on  
21 integration and going out into the community and just  
22 doing general community activities.

23 And for an individual who wants to earn a  
24 paycheck, that's just not appropriate and that's kind of  
25 what it comes down to, and I think -- I don't remember the

1 numbers, but Mark was talking earlier about some of the  
2 outcomes in other areas where individuals with 14(c)  
3 certificate has gone away and they're no longer using it,  
4 and I believe he cited some strong statistics where  
5 members went to day programs from employment. And that's  
6 just taking someone who wants to work and earn money and  
7 the opportunity is no longer there for them. That's where  
8 I was coming from, if that helps.

9 MR. YORDY: Eric Yordy. I want to thank all  
10 three of you for the work you do and expand that to the  
11 panels we've had all day today. It's important what we  
12 do.

13 As I try to get my head around the whole  
14 14(c) subminimum wage or it's been called several  
15 different things today -- and I come from a position of  
16 being a faculty member in a business college, so I tend to  
17 think about things economically. So I am trying to figure  
18 out -- we've heard statistics that if 14(c) certificates  
19 go away, then there will be less employment of people with  
20 disabilities in those positions, in those training type of  
21 positions so it may result in less ability for you to  
22 train them; there will be fewer people that you could put  
23 through your programs because you would have to pay more,  
24 in theory.

25 So I'm, from the theoretical perspective I

1 guess, trying to get my head around is the 14(c) the best  
2 option? And I am not even sure there is a question. I'll  
3 get to one. And so I guess the question is I've heard  
4 lots of benefits for the 14(c). If there were other  
5 things that the government was doing, if the government  
6 said we'll give you more incentives on the tax side for  
7 employers; we'll give you more budget, would you stand up  
8 and cheer that the 14(c) goes away if it were to go away?  
9 Is it just purely an economic issue or are there other  
10 reasons why the 14(c) is important? That's my question.

11 MS. O'TOOLE: I will answer. She's a social  
12 worker and I'm an accountant. So there's not one easy  
13 answer to this. I mean, kind of how it's set up is when  
14 you're in a training program, we get reimbursed by the  
15 state to staff it. And we go out and we find work from  
16 employers to bring into the center to pay our individuals.

17 If we're in a community setting, those  
18 individuals are paid by -- for instance, we have a group  
19 employment at IHop. Just recently, they asked us to  
20 expand that. So Gina's and my initiative in our community  
21 settings has been we will not expand them unless that  
22 employer is willing to pay minimum wage. This particular  
23 one is not at minimum wage. We used our 14(c)  
24 certificate, and they wanted to expand it, bring in more  
25 guys to work. We said no. If you will pay us minimum



1 wage, then we'll bring in more guys. If you're not  
2 willing to do that, we're not going to do that, right?

3 So in that perspective, it is economic  
4 because that employer, I feel, is not being fair by paying  
5 it. For us, being economical, we would love to pay  
6 everyone in our center minimum wage, but we're a  
7 nonprofit. You know, our reimbursement rates are  
8 restricted by the state, what they can pay through the  
9 legislature. I mean, you know, it's all complicated.

10 What we've started to do at Opportunity Tree  
11 is create other job opportunities for our individuals.  
12 We've gotten grants from cities to start a digital studio.  
13 Those individuals are all paid minimum wage by us, as an  
14 employer. So, again, it's not exactly -- I guess it all  
15 goes back to the economics, because would the training  
16 centers go away if our job coaches weren't trained to do  
17 what they do? We don't have the funds to do that.

18 I don't know if I answered it, but just to  
19 give you some idea.

20 MS. REED: If I may, for Ability 360, as a  
21 center for independent living, we support the phase-out  
22 and ending of subminimum wage 14(c) certificates. We are  
23 represented by the National Council on Independent Living  
24 which also represents 500 centers for independent living  
25 nationwide, including the other four centers here in

1 Arizona, and they also are supportive of the phase-out and  
2 ending of 14(c).

3 CHAIRMAN VAN ASSCHE: Any other questions  
4 from our committee? Thank you very much to our panel. We  
5 really appreciate your time and we're ready for our last  
6 panel, parent perspectives.

7 Thank you and we will begin with our last  
8 panel of the day. Our panel is titled parent  
9 perspectives, and with us is Dr. Ricky Williams and Eva  
10 Hamant and we will start with Dr. Williams.

11 DR. WILLIAMS: I feel a little like the  
12 bottom of the ninth inning and it's two outs and one run  
13 and I'm up to bat and the audience is getting restless,  
14 and I am either going to hit a home run or strike out, one  
15 or the other, whichever it is, and it's a nice day  
16 outside.

17 So I am here in two capacities. I am the  
18 chair of the board of directors of Beacon Group, a large  
19 nonprofit organization in Tucson whose mission statement  
20 is Beacon Group creates opportunities for people with  
21 disabilities.

22 More importantly, I'm Sarah's father. Sarah  
23 is 38 years old, has been receiving less than minimum wage  
24 since she became employed at Beacon Group at age 22. I  
25 want to describe why I believe continuing Section 14(c).

1 I'd like to talk first about Sarah.  
2 Sarah -- and in the pictures, by the way, Sarah is the one  
3 with the hat on and she is the one dressed up as Dorothy  
4 in the Wizard of Oz for Halloween.

5 Anyway, she was born with a rare chromosomal  
6 anomaly called mosaic ring chromosome number nine. To  
7 give you a perspective, many people, including several of  
8 her doctors, have mistakenly labeled her as having Down  
9 Syndrome because several of her features resemble those of  
10 a person with Down Syndrome.

11 She started treatment for developmental  
12 disabilities at 15 months of age, and when it came time  
13 for her to go to regular public school, my wife and I had  
14 some difficulty convincing her home school district to  
15 accept her, but because of what at the time was public law  
16 94-142 that guaranteed a free appropriate public education  
17 to each child with a disability, she was enrolled.

18 Sarah loved going to elementary school,  
19 especially for the social interaction that she had with  
20 the other students, most of whom were typically developing  
21 children. We invited friends to our house and Sarah was  
22 sometimes invited to their homes.

23 But as time went on and the difference  
24 between Sarah and typically developing children became  
25 more obvious, the social interaction with other typically

1 developing children because less frequent. So since the  
2 time she was in middle school, she was never invited to  
3 others' homes. That can be a pretty lonely time for a  
4 teenager.

5 High school classmates were nice enough to  
6 her for the most part, and Sarah did identify a few  
7 typically developing girls whom she considered friends,  
8 but the relationships were pretty superficial.

9 When Sarah was in the seventh grade, a  
10 beloved special education teacher died of a brain tumor,  
11 and this event we believe triggered a psychotic episode  
12 that lasted a year. At the start, Sarah went seven days  
13 with severe anxiety and zero sleep. She described people  
14 coming out of her stomach and of her being eaten. We gave  
15 her Lorazepam, a medication to help with anxiety so she  
16 could sleep. The usual dose is two milligrams. One night  
17 I gave her seven milligrams. She was still wide awake.  
18 That's enough to knock over a horse.

19 So she was treated with several medications,  
20 as psychotherapy would have been useless, and my wife I  
21 were essentially a 24-hour a day psychiatric ICU tag team  
22 for a year. She's had two more psychotic episodes  
23 triggered by death, slightly less severe than the first.  
24 She continues on several daily medications.

25 The reason I tell this story is because what

1 really helped Sarah was structure and routine.

2 Later on, my wife and I investigated options  
3 for Sarah after high school and we looked at a number of  
4 organizations that provided services. In her last two  
5 years of high school, she worked at Tucson Public Library,  
6 assisted by a school job coach. Sarah knows the order of  
7 the alphabet and numbers quite well, so we thought  
8 re-shelving books seemed like reasonable work for her.

9 After she had been there several months, we  
10 met with the librarian who made no bones about not  
11 considering hiring Sarah because her productivity is not  
12 what would be needed to keep a job there. The personnel  
13 there didn't interact with her very much either.

14 Now, as you probably know, people with  
15 disabilities can continue in school until they're 22 years  
16 old, so on Sarah's 22nd birthday, they had a party at  
17 school and that completed their responsibility for her.

18 She began working at Beacon soon after  
19 that and has now been there for 16 years. Sun Van picks  
20 her up in front of our house at about 7:15 a.m., drops her  
21 off at home at 3:45 five days a week. You should see  
22 Sarah wave at her friends when she says good-bye to them  
23 as she gets off the van.

24 So I'm at Beacon fairly often in the  
25 afternoon, so I'll ask Sarah do you want to ride home with

1 me or Sun Van? Sun Van she says. That's her routine.

2           So when Sarah started at Beacon, she worked  
3 doing landscaping at Raytheon. She worked inside Beacon's  
4 main building assembling what she called T's which are  
5 connectors in heating and air conditioning systems. She  
6 didn't like working in the heat, as you can imagine, doing  
7 landscaping. So she's been inside for the past several  
8 years in what you would call a sheltered workshop. She  
9 doesn't care what she's asked to do. She doesn't claim to  
10 have a favorite activity, whether that involves assembling  
11 rivets to hold your airplane together -- if it falls  
12 apart, you can blame Sarah -- whether that's packing bags  
13 for Tucson Electric Power.

14           So one day after work, I asked her what she  
15 did that day and she said lock picks. The next day she  
16 said tattoos. I wondered what kind of place is this  
17 Beacon she's working at. But anyway, the lock picks are  
18 lock picks and tattoos are like little sticky notes.

19           Each year, we have an individualized service  
20 plan to review Sarah's performance and examine the many  
21 choices she has for further opportunities at Beacon or  
22 elsewhere. Sarah has chosen to work inside Beacon's main  
23 building and she's paid a piece rate which means she gets  
24 paid for every piece she makes. This is explained in the  
25 Beacon Group handout that we receive each year during her

1 review. The handout goes on to explain that those who  
2 work in the job that is not paid by a piece rate are paid  
3 on how fast they work compared to how fast a person  
4 without a disability works doing the same job.

5 Sarah's productivity is clearly less than  
6 that of a typical worker. Her paychecks reflect her  
7 productivity, but she doesn't worry about how much she's  
8 paid. It is important to her, however, that she receive a  
9 paycheck. To Sarah, her paychecks are just as valuable as  
10 those of everyone else in the family.

11 Now, in 2008, Sarah's W-2 form from Beacon  
12 lists her wages at \$2,120.03, about \$81 per paycheck every  
13 two weeks. With each paycheck is a detailed analysis of  
14 her hours worked and the earnings per hour. Vacation and  
15 sick time are also reported.

16 Now, Beacon is currently paid \$6.10 per hour  
17 from the Arizona Division of Developmental Disabilities to  
18 supervise Sarah in Beacon's center-based employment. If  
19 Sarah would choose not to work in production and instead  
20 spend her time in a day treatment program, Beacon would  
21 receive \$10.61 an hour from the Arizona Division of  
22 Developmental Disabilities for providing day treatment and  
23 training services. That's \$4.51 per hour more than if  
24 Sarah works in production.

25 However, what hasn't been mentioned yet

1 today, in addition to Sarah's Beacon paycheck, she  
2 currently receives \$1,319 per month from Social Security  
3 after her Medicare is paid. She became eligible for  
4 Social Security after I retired a few years ago at age 65.  
5 Adding that to her Beacon paycheck, she takes home about  
6 \$1,555 per month and her health insurance is paid.  
7 Assuming she works 30 hours her week, her take-home income  
8 adds up to \$12.96 per hour.

9           Before Sarah received Social Security, she  
10 was on Supplemental Security Income or SSI which in 2019  
11 has a benefit rate of \$771 per month for an individual.  
12 SSI payments are a bit complicated. The more countable  
13 income you have, the less the SSI benefit will be, and  
14 nearly every individual at Beacon who's on the 14(c)  
15 program belongs to either the SSI program or Social  
16 Security.

17           Now, having Sarah work at Beacon has allowed  
18 my wife and me to work full time as a pediatrician and a  
19 pediatric nurse. It's not safe for Sarah to stay at home  
20 alone. She's pretty high maintenance and always has my  
21 wife or me to direct her activities when she's at home.  
22 She doesn't watch TV. One time in your life when you'd  
23 like your kid to watch TV. She won't watch TV. But she  
24 leads a full life and she thrives on being busy.

25           She's in Special Olympics bowling in the



1 summer clear through until May -- I mean, yeah, all of  
2 what you'd call the school year and part of the summer.  
3 She has Special Olympics swim team every Tuesday and  
4 Thursday evening from March until October. She has  
5 Special Olympics basketball and track and field each  
6 winter. She goes to a Rotary sponsored dance the first  
7 Saturday evening of each month.

8 She has a best friend she met at Beacon  
9 who's in the picture with Sarah and they call each other  
10 each evening mainly to compare what they're having for  
11 dinner. The two of them often get together on Saturdays  
12 and go to a movie, go out to eat or just hang out at each  
13 other's home.

14 When my wife and I occasionally want to go  
15 out for just by ourselves, we use respite care and have an  
16 excellent caregiver. We think Sarah considers that her  
17 time away from us.

18 She goes to church every Sunday and goes by  
19 herself to the contemporary service where she never has  
20 trouble finding somebody to sit with. She also writes  
21 letters of encouragement each week to members of our  
22 congregation.

23 Now, as I mentioned, Sarah can't be left  
24 alone. Although she has remarkable gifts such as an  
25 uncanny memory for dates and times, try as we might, she

1 has not learned to look both ways before crossing the  
2 street. She travels with my wife and me pretty much  
3 wherever we go.

4                   If Sarah didn't have a job, one of us would  
5 have to stay at home with her or she would need to go to  
6 the day treatment program which would cost the government  
7 substantially more than having her work with supervision  
8 at Beacon.

9                   I can only imagine the negative effect on  
10 Sarah if she had no job. Her friends are at work, and she  
11 likes to be busy. She doesn't like it during those  
12 occasional occurrences during work when she has downtime.  
13 In addition, long weekends are difficult for her.

14                   Two things are especially important to her  
15 at Beacon: the social interaction she has with peers and  
16 the structure Beacon gives to her life. Money takes a  
17 very distant third place.

18                   I now would like to give my take on 14(c) as  
19 chair of the Beacon Group board of directors. Beacon is a  
20 non-profit organization, and finances are a very important  
21 part of our continued existence, allowing us to offer  
22 employment to people with disabilities who otherwise might  
23 be out of a job if our organization should fail. While  
24 our organization is in good financial shape, requiring  
25 minimum wage payments to people with disabilities with low

1 productivity would create major problems for us. Many  
2 nonprofits wouldn't be able to continue if they must pay  
3 minimum wage to people with disabilities with low  
4 productivity. Then what would those people do? We heard  
5 that described earlier today.

6 Beacon currently serves over 1,800 people  
7 with disabilities. About 225 are paid according to 14(c).  
8 However, as I mentioned before, nearly all of them have  
9 Social Security or SSI in addition to their pay at Beacon.  
10 If Beacon had to pay \$12 minimum wage to everyone, we  
11 would spend an extra \$1.5 million a year just on wages,  
12 and adding all the employee taxes and worker's  
13 compensation, it would be about \$1.75 million and not many  
14 businesses could withstand such a change.

15 So what difficult choices would Beacon have  
16 to make if 14(c) is eliminated? We could ask those who we  
17 currently contract with to pay us more. Our largest  
18 business is assembly for an aerospace company. Do you  
19 really think they would continue Beacon's contract at a  
20 much higher rate if they could move their businesses  
21 somewhere else? They've actually hinted at moving the  
22 production down to Mexico.

23 Another choice would be to stop providing  
24 employment to the 225 people with disabilities currently  
25 working at subminimum wage. What would happen to them?

1 As mentioned before, maybe a few would be hired by  
2 employers who wish to do good and would pay the minimum  
3 wage, though not many employers would keep them on full  
4 time.

5 The 225 people with disabilities could  
6 switch to Beacon's day treatment program, and that would  
7 cost the State of Arizona substantially more than they're  
8 currently paying for services for those individuals.

9 Mental health issues are also pretty common  
10 in the special needs population. What would losing the  
11 choice to work do to the mental health of those  
12 individuals we serve? I can't think of anything positive.

13 So I'd like to invite you all to come visit  
14 Beacon. I think you would be impressed with how focused  
15 and hard working our employees are. I think you'll also  
16 see that they're happy to be there at work.

17 As mentioned before, an estimated 74 percent  
18 of working age individuals with developmental disabilities  
19 are not currently employed. Many of them sit idly at home  
20 all day. Those who live in group homes would need to be  
21 taken care of during the day. That's not provided for  
22 with the group home payments now. I'd hate to see our 225  
23 people now working at subminimum wage join the ranks of  
24 the unemployed just because some well-meaning people  
25 insist that they receive minimum wage.

1           So here's a challenge to all of us in this  
2 room: Let's say you decide to start a business and you  
3 hire all 225 of the individuals who will receive  
4 subminimum wages at Beacon. You decide to pay them all  
5 minimum wage even though their productivity remains the  
6 same as it is at Beacon. How long would you remain in  
7 business?

8           What employer would knowingly hire and pay  
9 minimum wage to a worker whose productivity is less than  
10 that of a typical worker? Sure, there are some who would  
11 do that for whatever reason, but I think they would be the  
12 exception.

13           So while Section 14(c) may go away over  
14 time, I am in no rush to see that happen. I have nothing  
15 against Sarah and others like her receiving the equivalent  
16 of a minimum wage, but I feel like any employer must  
17 receive a subsidy from an outside source to make that  
18 happen, and how to accomplish that is way above my pay  
19 grade.

20           So I'd like to end with a short story. My  
21 wife and I were fortunate enough to take Sarah with us to  
22 France several years ago. So after a very fine day on the  
23 French Riviera, we were marveling at the Mediterranean  
24 sunset, and I said to Sarah, Sarah, would you rather be  
25 here or Beacon? Without hesitation, Sarah, says Beacon.

1 That's where her friends are. Thanks.

2 MADAME CHAIR VAN ASSCHE: Ms. Hamant.

3 MS. HAMANT: I am Eva Hamant, and I have a  
4 daughter Becky who's almost 36 years old and uses a  
5 high-end augmentive communication device. Her transition  
6 vision from high school was a job. After she exited from  
7 high school, VR got her with an agency to see what her job  
8 skills were. I got her a volunteer job at Our Lady of Mt.  
9 Carmel's St. Vincent DePaul's food panty shredding paper  
10 and putting cans on their shelves.

11 After about three times at each place, Becky  
12 used her behavior to tell the agency lady she did not need  
13 to hand her the paper to shred. The lady did not know  
14 sign language, nor how to use the device. Turns out the  
15 girl I hired to work with Becky at the food pantry let  
16 Becky pick up the paper from the box and shred it herself.

17 So VR moved to an agency with a sheltered  
18 workshop. One refused her outright as being too retarded  
19 and another one wanted her to practice her readiness  
20 skills in a day program. I was never one for the  
21 readiness mode, as when she was four or five and getting  
22 oral motive feeding in the preschool, the speech  
23 pathologist had a district meeting that afternoon. She  
24 did Becky's therapy. She gave Becky a bite of food and  
25 moved the dish. At home, that translated into one bite of

1 food and Becky moving the dish off the highchair. So  
2 obviously, mom did not know the routine.

3 So Becky exited VR and I worked on the City  
4 of Tempe to get her a volunteer job at the volunteer fair.  
5 It took the ADA to finally get her a volunteer job at the  
6 library which after several years, they automated things  
7 and could never find her another volunteer job. Their  
8 food pantry was too small for her and her provider to  
9 work, and the kitchen help didn't even want to deal with  
10 her.

11 Becky has been included since she went to  
12 religious ed when she was three years old. In the summer,  
13 I signed her up for the parks music program. The  
14 protective advocacy said that her very adaptive wheelchair  
15 was not Becky's problem but the staff's. Since then, I  
16 have pushed school districts and King County Park in  
17 Washington State for inclusion in their programs.

18 We moved to Arizona and I started again on  
19 pushing Kyrene, City of Tempe, the YMCA and Tempe Union to  
20 include Becky. Our last issues were on our transition  
21 plan for a job and not a day program, nor a sheltered  
22 workshop. Later I will pass this out.

23 Becky and I passed out the ARC of Arizona  
24 position paper on the minimum wage at the legislature when  
25 they passed that bill. That's why we're having this

1 problem. So obviously, I am not for having a 14(c) being  
2 passed by you.

3 But what happened was when I went to an ARC  
4 of Arizona meeting down in Tucson, parents were not happy  
5 because while their child got -- their adult child got  
6 minimum wage, the agencies cut their hours. Turns out  
7 they have these nice lucrative contracts and so that's how  
8 they can afford paying subminimum wages.

9 CMS, I hope you all know, final rule is that  
10 sheltered workshops are supposed to be a short-term  
11 training for competitive jobs. My perception is that  
12 Arizona needs to pass something, and I really don't know  
13 the Redbook stuff, but obviously, right now, I thought  
14 there were six weeks of training and we really -- other  
15 states that really get people with disabilities jobs have  
16 longer training periods when they have inclusive jobs.

17 While we have a waiver not to put people  
18 with ID in institutions, we have institutionalized group  
19 homes and day programs because after graduation, people  
20 with ID fall into a black hole for lack of work and  
21 inclusive activities.

22 At one Arizona meeting on the final rule,  
23 one agency complained that they can find staff but parents  
24 don't like them. I bet the agencies say they have jobs  
25 but people don't want them.



1 CMS says that services should be person  
2 centered. Just because a person decides they don't like  
3 the job that the agency has for them, they are a fact --  
4 the fact they are working at a job and change their mind  
5 about that job, they should be able to have another  
6 inclusive job. I mean, how many of you have had multiple  
7 jobs and that became your choice? Why can't people with  
8 disabilities also have a choice in what kind of job they  
9 have out in the community?

10 CMS also says the day programs are being  
11 funded by home and community based services so they must  
12 be inclusive. Right now, most day treatment programs are  
13 not inclusive and they are going to be struggling to find  
14 how they can get it.

15 So I heard one lady say that, well, you  
16 know, they're going to be warehoused in a day program.  
17 Well, those day programs are going to have to do home and  
18 community based services. That means they have to be  
19 inclusive. This is -- CMS is now driving home and  
20 community-based services which is how the agencies are  
21 getting their center-based pay, and CMS says if you're  
22 going to get home and community-based services, you need  
23 to be inclusive.

24 And so why would you want to give them a  
25 waiver to shelter the non-inclusive and not help push the

1 system forward to get inclusive jobs for people with  
2 disabilities, just like everybody needs an inclusive job  
3 and people like -- we're now retired, you know, so you  
4 have a choice to work or not work, like volunteer. Becky  
5 volunteers and, unfortunately, I did not go into all the  
6 things she does. She does not sit home all day, although  
7 right now, we don't have a provider, but Becky goes out in  
8 the community.

9           Ability 360 has a cooking class and they  
10 cook the meal and Becky cleans up, and she has a provider  
11 to help her because, being nonverbal, she's sort of  
12 dangerous being by herself, not being able to tell people  
13 where she's going. And she does bowling, works out at the  
14 exercise at the ARC of Tempe when it was functioning, and  
15 she has lots of friends from the ARC of Tempe, and she  
16 also does Together We Live, and she gets pushed in a  
17 free-wheel stroller in races. She did the rock and roll  
18 and the -- anyway, she gets -- and the thing is, you know,  
19 she gets medals. She likes medals. She does Special  
20 Olympics and her sister is teaching her to do golf, and  
21 they're doing the -- and I just recently signed her up to  
22 do soccer because she used to play soccer with the Y.  
23 That's how she learned to walk on uneven surfaces. And  
24 she knows how not to get hurt. Thank you.

25           CHAIRMAN VAN ASSCHE: Thank you so much to

1 or panel. Turn it over to the committee for questions?

2 MS. BROWDER: I don't have a question. I  
3 just want to thank you both very much for being here and  
4 providing your perspectives.

5 CHAIRMAN VAN ASSCHE: There being no other  
6 questions, thank you so much to our last panel, really  
7 appreciate your time. We will now open the floor to the  
8 public for public comment.

9 As I mentioned earlier, if you would like to  
10 make a public comment, please see Carolyn in the back so  
11 that we can get your name. Please keep your remarks  
12 succinct in roughly three to five minutes. I know we have  
13 two members from the public who expressed interest.

14 Thank you. We have with us Greg Natvig from  
15 the Beacon Group and also Erica McFadden with Arizona  
16 Disability Planning Council. We will start with Mr.  
17 Natvig.

18 MR. NATVIG: My apologies to the room for  
19 making only -- Erica and I are the only two making public  
20 comments, extending your day here. I really enjoyed this  
21 today and I thank everybody for being here, especially the  
22 Arizona committee. I thank all of the presenters. I  
23 think that I agree with much of what all of the presenters  
24 said, and some very interesting perspectives.

25 I'll send my extended comments to the -- to

1 the committee separately, but I wanted to highlight a few  
2 things, perhaps to enhance a few things and maybe a couple  
3 of other different perspectives that weren't talked about  
4 today.

5 I'm with Beacon Group, and we're a nonprofit  
6 that provides opportunities, as Dr. Rick said, for people  
7 with disabilities. We provide an array of employment  
8 choices, and we believe our experience is that providing a  
9 way of employment -- an array of employment options for  
10 each individual and their person-centered team is the best  
11 way to achieve the maximum employment outcome.

12 One of these options as part of our array  
13 that we feel strongly about is 14(c) and we support it.  
14 We also, as many of the presenters, are an Employment  
15 First company and we push people to jobs that have  
16 competitive pay and in a community environment and work  
17 very hard towards that end.

18 One of the things I wanted to stress very  
19 much, if anybody has an interest in digging deeper in this  
20 issue and before considering the pros and cons, please  
21 come visit a place like Beacon Group and see and meet the  
22 people who are being paid under 14(c). We didn't have any  
23 of those today, unfortunately, but I think it's a  
24 different perspective. Those perspectives and the  
25 perspectives of the places where they work would be

1 interesting to you.

2 A couple things you might find at Beacon:  
3 All of the people in our company paid through 14(c) have a  
4 significant cognitive disability as their primary  
5 disability. Many also have very significant second  
6 disabilities all over the map: sensory, physical,  
7 dementia, what have you. We give choice to all. No one  
8 has to work in 14(c) if they do not want to. If they're  
9 in a person-centered team, we'll work with them to try and  
10 find the best outcome for them.

11 At any time, anybody in 14(c) can choose to  
12 pursue higher paying work and, again, we work very hard  
13 for those. Anybody who's in 14(c) and demonstrates they  
14 can work at close to an average pace, we will no longer  
15 pay them under 14(c). We'll pay the minimum wage or  
16 above.

17 What we've found in trying to work with  
18 individuals to get them into competitive and community  
19 employment, that there's really no secret formula for  
20 that. It's a very individualized process, and  
21 transitioning is very hard work. You have to evaluate  
22 every individual's aspirations, evaluate their abilities,  
23 and we have to work very hard to find just the right job  
24 for the individuals in many cases. The process takes  
25 time; in many cases, lots of iterations and years in many

1 cases, but we also find that for some, they're never going  
2 to be able to transition to higher wage positions.

3           One option our experience tells us that  
4 won't work as far as transitioning people away from 14(c)  
5 into higher paying positions is forcibly removing the  
6 14(c) choice, especially -- we heard some information here  
7 today, but we feel that cutting 14(c) off for a large  
8 majority of people who are under it now would force them  
9 into non-work activities, and again, we need that time to  
10 work with them.

11           Another observation kind of tied in with  
12 this is the use of 14(c) for Beacon has been declining  
13 pretty significantly the last couple of years. We just  
14 did our -- we renewed our certificate; it has to be done  
15 every two years, and even though our mission has expanded  
16 pretty significantly in that two years, as far as the  
17 number of people we serve and the number of jobs we have  
18 for people, things like that, the number of people that we  
19 were serving through 14(c) had dropped by 20 percent over  
20 those two years, and I think a lot of what -- you heard a  
21 lot of reasons today for that.

22           I think younger people are getting better  
23 preparation in school and aspiring to work in community  
24 settings and higher wage settings. The work that we  
25 talked about, our own work and many other providers too,

1 it's hard work, but we are finding people jobs at  
2 competitive wages.

3 Let me see. One other comment on numbers.  
4 We heard numbers of how many people might be in 14(c) in  
5 Arizona. I heard some may be a little below a thousand,  
6 maybe up to 2,000, something like that. Another number I  
7 will give you is that working age people with significant  
8 disabilities in Arizona, there are 268,000 who are not  
9 working.

10 So, you know, this room is full of  
11 advocates, right? And one of the things I want us and the  
12 advocate committee to keep our eye on, 14(c) is an issue  
13 we can talk about; we have disagreements on, but there are  
14 many, many, many more people with significant disabilities  
15 who are completely out of the workplace right now, and  
16 that's the group that we should be working with the most.  
17 I think I've gone over my time, so that's it. Thank you  
18 very much.

19 CHAIRMAN VAN ASSCHE: Thanks. Miss  
20 McFadden.

21 MS. MC FADDEN: Hi, my name is Erica  
22 McFadden, and I am the executive director of the  
23 Developmental Disabilities Planning Council, and I speak  
24 fast so I am going to force myself to slow down for you.  
25 Okay.

1 I'm hoping -- I don't want to repeat  
2 anything that was said today. But I want to ask do you  
3 all know what the state DD's councils are? And if you  
4 don't, I'll tell you. Okay. So there's one state DD  
5 council in every state and territory. We are federally  
6 mandated and federally funded and set up through the DD  
7 Act of 2000. We are here to advise state and federal  
8 governments as well as, you know, nonprofit organizations  
9 and the general public how to include people -- on how to  
10 include people with developmental disabilities. So we put  
11 out research grants; we put out grants. In fact, Greg,  
12 Beacon Group, has one of our grants right now.

13 We also do research. We do advocacy work,  
14 and our council is appointed by the governor. So we have  
15 state agency leaders on it, people with developmental  
16 disabilities on it, as well as universities and other  
17 nonprofits.

18 So just so you know, I'm presenting research  
19 for you today that might help, because I know earlier,  
20 there was a call on what's out there already. So just so  
21 you're aware, the council has taken a position to support  
22 elimination of the federal subminimum wage, only because  
23 it's outdated and because there's already existing  
24 mechanisms out there to support employers on hiring people  
25 with disabilities. I'm going to talk about what those



1 are.

2                   Before I get into that, I was going to  
3 mention that about five years ago, we conducted a study of  
4 898 Arizona voters, and we found that 80 percent of them  
5 said that not only would they look more highly upon  
6 businesses that were recruiting people with disabilities  
7 but they would be more likely to be loyal to them. So  
8 there is a business case for why businesses should hire  
9 people with disabilities.

10                   The second thing that we found -- you heard  
11 about this mysterious report that people have been  
12 referring to called *The Power of Disability Employment*. I  
13 brought it for you all today to look at. It is the first  
14 study being done of its kind to talk about the impact of  
15 including people with disabilities and Arizona's GDP.

16                   So what we found is that even marginally  
17 including people with disabilities in part-time  
18 employment -- this isn't even full time, just part time --  
19 compared to similar states like ours, because we're kind  
20 of like a mid level state when it comes to employing  
21 people, but we have an increase of 281 million to 800  
22 million GDP in Arizona. That's huge. Over ten years,  
23 that's \$8 billion.

24                   In addition, we get 700 to 2,000 new jobs  
25 that are created each year, and over a ten-year period,

1 that would result in 20,000 new jobs in Arizona.

2 In the short term, state tax revenues would  
3 be expected to increase anywhere between 14 and  
4 \$41 million a year, and the full study is on our website  
5 as well. So there is an economic case for why we need to  
6 get people into the community working because it helps  
7 everybody.

8 We believe that part of the problem and the  
9 reason why there's been such a focus on this use of  
10 subminimum wage is because the community isn't aware  
11 what's available. So Exhibit B, here's our federal tax  
12 credits that we have out there right now. There's the  
13 work opportunity tax credit which is available to  
14 employers who hire workers on SSI, which is most of our  
15 people, and employers can earn anywhere between 1200 to  
16 \$9600 per employee.

17 In addition, there is a federal disabled  
18 access credit which subsidizes the cost and accommodations  
19 such as American sign language interpreters and job  
20 coaches which help -- which help people, train them on the  
21 job and help them hold a job. So through this credit,  
22 small businesses can receive a maximum credit of \$5,000  
23 annually.

24 Arizona state law also provides protections  
25 to our employers and our providers. We have these things

1 called the learner and apprentice wage rates which allows  
2 employers to pay less than the minimum wage for a fixed  
3 period of time for both workers with and without  
4 disabilities. So it's not based on disabilities; it's  
5 based on the fact that they're learning.

6           There's also a special license for work less  
7 than the minimum wage, that a minor -- I don't know about  
8 how much we agree with this, but it allows a minor whose  
9 earning capacity is impaired by age, physical or mental  
10 deficiency or injury can receive for a fixed period of  
11 time. So there's also that in Arizona. So we have all  
12 these mechanisms that employers can currently use. They  
13 don't need the federal minimum wage certificate.

14           There's also -- in Arizona, you have to be  
15 considered an employee, and if an employee is working, if  
16 the services rendered are for the primary benefit of the  
17 employer, so if the employer is making money because of  
18 that employee, then that's an employee. But if it's for  
19 the personal benefit of the individual without an  
20 agreement for compensation, then they can be a trainee or  
21 a service recipient, and under either category, in  
22 Arizona, you don't have to pay them anything. They can  
23 get a stipend. They can get -- you know, they can just  
24 get a rate agreed upon by the person that's employing  
25 them.

1           So I just want to be clear that existing  
2 state law -- in fact, that's in Exhibit C. That's in this  
3 report. So we have already -- and I think a lot of states  
4 do. You'll find that other states have mechanisms for  
5 employers to use. I just think that part of it is getting  
6 that information out to the employers.

7           In addition to that, we know that the  
8 struggle is real for our providers, and we support our  
9 providers. We love our providers. They're helping us to  
10 get this GDP issue addressed. We realize that there's a  
11 significant issue with funding them properly, and in order  
12 for them to be our headhunters and our trainers, we  
13 realize that we need to do more to look at how to support  
14 them so that it's considered an investment into our  
15 economy.

16           So we recognize that the elimination of the  
17 subminimum wage is not going to fix everything, but it  
18 will be a start in doing so, and we need to recognize that  
19 we have a lot more work to do to get to where we can get  
20 that maximum GDP increase. Thank you. And I will have  
21 extra copies of this if you want to take them with you.

22           CHAIRMAN VAN ASSCHE: Thank you, everyone.  
23 I really appreciate you bringing those materials. They  
24 will be very helpful.

25           Does the committee have any comments or

1 questions?

2 MS. RASSAS: And it's McFadden?

3 MS. MC FADDEN: Yes.

4 MS. RASSAS: So it sounds like your position  
5 is that 14(c) is outdated and already covered by other  
6 programs?

7 MS. MC FADDEN: Exactly.

8 MS. RASSAS: So is it your position that if  
9 14(c) phases out, the \$1.75 million that Beacon would need  
10 to operate would be provided to them through other  
11 programs, not just this year but every year so that they  
12 can continue to employ less productive but eager workers?

13 MS. MC FADDEN: So the one point -- I don't  
14 know what the 1.75 -- I don't know what that amount -- I  
15 don't know their budget, so what they're covering, but I  
16 do know they get state funding.

17 So I guess the question would be what it  
18 would be covering and what's already -- could be looked at  
19 in existing federal tax credit benefits under state law.

20 MS. RASSAS: So it sounds like the  
21 1.5 million would be for wages and then other employee  
22 related expenses totals about \$1.75 million a year. But  
23 it is your position that that money would exist for them  
24 both this year and every year going forward so people like  
25 Sarah Williams could continue to work?

1 MS. MC FADDEN: Well, again, they don't --  
2 it depends on what they're doing, so if they consider them  
3 truly a trainee, which is defined in state law, or a  
4 service recipient, they don't necessarily -- they can give  
5 stipends which -- you know, they can reduce the costs  
6 based on what they're doing, is what I'm saying.

7 MS. RASSAS: We also heard that Sarah has  
8 been working at Beacon for about 16 years. Is it your  
9 position that this learner wage rate would cover somebody  
10 whose productivity is life-long limited? Is it your  
11 position that that wage would be available for 16 years?

12 MS. MC FADDEN: So I don't know Sarah, and I  
13 don't know if she's trained in like -- maybe it was not  
14 the right field for her, if there was another type of  
15 position. Because I don't know her, I can't comment on  
16 what's appropriate for Sarah.

17 MS. RASSAS: Okay. Just to be clear, that's  
18 the testimony we heard earlier.

19 MS. MC FADDEN: No, I understand, but I  
20 can't tell you what's appropriate for Sarah. I just know  
21 that there's a bunch of different other mechanisms that  
22 have been introduced over the years since 80 years ago  
23 that can help these employers look at it. I do believe  
24 they need to be better supported.

25 MS. RASSAS: We also heard information

1 earlier that phasing out 14(c) -- I believe this was  
2 testimony from Mr. Jacoby -- that the people leaving  
3 14(c)'s were frequently going into non-working positions,  
4 meaning they weren't suddenly getting minimum wage; they  
5 were instead not working at all.

6           Despite that evidence, is it still your  
7 position that 14(c) should be phased out?

8           MS. MC FADDEN: So here's the thing -- so I  
9 guess my question is what does 14(c) -- what is it doing?  
10 I mean, if they're not leaving, if they're staying for 19,  
11 20 years, I mean, I guess it's the question of what is  
12 14(c) for? Because the point was to be training wages,  
13 right, so they can eventually become competitively  
14 employed. And if that's not happening maybe in some  
15 cases -- we believe that most people can be. But in some  
16 cases, they may not be able to. So if that's the case,  
17 then, you know, if they don't want to work, they shouldn't  
18 have to work.

19           MS. RASSAS: Well, is it your experience  
20 that work provides people some level of human dignity?

21           MS. MC FADDEN: Yes, of course, but again,  
22 not all people with disabilities choose to work.

23           MS. RASSAS: And if somebody chooses to work  
24 but can never reach a level of productivity of a typical  
25 developing adult, is it your position that they would

1 still have the right to that dignity of working and  
2 getting a paycheck?

3 MS. MC FADDEN: So are you saying to have a  
4 subminimum wage level from 80 years ago, that is -- what  
5 you're saying is somebody who can't get to full  
6 productivity level, might be given a \$2 wage, and that  
7 that's as good as we think we're going to be able to get  
8 for that person?

9 MS. RASSAS: I actually don't know.

10 MS. MC FADDEN: Well, I don't either. These  
11 questions you're asking are really tough, but the reality  
12 is that I don't -- my whole point to say this is that I  
13 don't think that we've properly explored all the avenues  
14 out there, and I do believe that we haven't been doing  
15 enough to support providers, to be able to give them, you  
16 know, what they need to do, individual supported  
17 employment to actually help people get customized  
18 employment.

19 MS. RASSAS: Beautiful. So, Ms. McFadden,  
20 can you give us one idea, give us an idea for something we  
21 could do, something we could propose for support for these  
22 providers.

23 MS. MC FADDEN: What do you mean?

24 MS. RASSAS: You're mentioning that they  
25 need more support.



1 MS. MC FADDEN: Right. So individualized  
2 training and mentoring on the ground. For example, the  
3 program that Beacon has right now, our evaluation  
4 committee agreed to fund Beacon because they're going to  
5 try doing competitive integrated employment, where they go  
6 out and individualize their job, I guess, looking for  
7 jobs, job coaching, finding out what works best for that  
8 person as opposed to putting them all in a mass setting  
9 and training them together. They individualize the job  
10 and that -- we're going to see how successful that is,  
11 what works and what doesn't work. Does that make sense?

12 MS. RASSAS: Thank you.

13 CHAIRMAN VAN ASSCHE: Thank you, everyone.  
14 Thank you to our panelists and thanks for our members of  
15 the public who have attended today and who have spoken.

16 I want to remind everyone that the  
17 transcript and other materials will be available within  
18 30 days following this meeting. If you provided your  
19 e-mail address when you signed in this morning, we will  
20 send you follow-up information regarding how to access  
21 those materials.

22 We will also notify you when the committee  
23 is meeting for follow-up discussion and when the report  
24 will be available. The record will remain open through  
25 April 9, 2000 -- I'm sorry. That's last year's date. I

1 apologize. The record will remain open. I don't have the  
2 date in front of me, but if anyone would like to submit a  
3 written comment, please send them to the U.S. Commission  
4 on Civil Rights and I believe the address is available at  
5 the sign-in table. We do encourage you if there was  
6 something that you wish for us to consider.

7 Thank you everyone for your time and  
8 consideration and today's meeting is adjourned.

9 (The hearing concluded at 2:30 p.m.)

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1 STATE OF ARIZONA ) SS.  
2 COUNTY OF MARICOPA )

3 BE IT KNOWN that the foregoing proceedings were  
4 taken before me; that the foregoing pages are a full, true  
5 and accurate record of the proceedings, all done to the  
6 best of my skill and ability; that the proceedings were  
7 taken down by me in shorthand and thereafter reduced to  
8 print under my direction.

9 I CERTIFY that I am in no way related to any of  
10 the parties hereto nor am I in any way interested in the  
11 outcome hereof.

12 [ ] Review and signature was requested; any  
13 changes made by the witness will be attached to the  
14 original transcript.

15 [ ] Review and signature was waived/not  
16 requested.

17 [X] Review and signature not required.

18 I CERTIFY that I have complied with the ethical  
19 obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206  
20 J(1)(g)(1) and (2).

21 Dated at Phoenix, Arizona, this 3rd day of  
22 November, 2019.

*Laura Ashbrook*

LAURA A. ASHBROOK, RMR  
Certified Reporter  
Arizona CR No. 50360

\* \* \*

23 I CERTIFY that GRIFFIN GROUP INTERNATIONAL, LLC,  
24 has complied with the ethical obligations set forth in  
25 ACJA 7-206 (J)(1)(g)(1) through (6).

*Janeta A. Griffin*

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