



Sen. Daniel Biss

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1 AMENDMENT TO SENATE BILL 201

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 201 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Declaration of policy and intent. Section 14(c)  
5 of the Fair Labor Standards Act of 1938 authorizes the United  
6 States Department of Labor to grant special wage certificates  
7 to certain entities, which may then pay special minimum wages  
8 less than the federal minimum wage to workers who have  
9 disabilities. 119 Illinois entities are permitted to employ  
10 11,555 individuals with disabilities under certificates issued  
11 to Community Rehabilitation Programs under Section 14(c) of the  
12 Fair Labor Standards Act of 1938. Among those now working for  
13 less than minimum wage are people with autism, cerebral palsy,  
14 spina bifida, Down syndrome, and other intellectual,  
15 developmental, and sensory disabilities including blindness  
16 and deafness. Employees with disabilities rarely transition  
17 from Section 14(c) programs to integrated employment at

1 competitive wages. The practice of paying workers with  
2 disabilities less than the federal minimum wage dates back to  
3 the 1930s, a time when there was virtually no employment  
4 opportunities for workers with disabilities in the mainstream  
5 workforce. The Illinois Employment First Act stipulates that  
6 "competitive and integrated employment shall be considered the  
7 first option when serving persons with disabilities of working  
8 age". Advancements in vocational rehabilitation, technology,  
9 and training now provide greater opportunities to workers with  
10 disabilities.

11 Section 5. The Department of Human Services Act is amended  
12 by adding Sections 1-75 and 1-80 as follows:

13 (20 ILCS 1305/1-75 new)

14 Sec. 1-75. Phase-out plan.

15 (a) The Department, in partnership with other State  
16 agencies, including the Department of Labor, the Department of  
17 Healthcare and Family Services, the Department of Central  
18 Management Services, the Department of Commerce and Economic  
19 Opportunity, the Department of Employment Security, and the  
20 State Board of Education, shall develop and implement a plan to  
21 phase out, on or before July 1, 2022, authorizations under  
22 Sections 5 and 10 of the Minimum Wage Law to pay an employee  
23 with a disability less than the minimum wage otherwise required  
24 for the employee under Illinois law.

1       (b) The phase-out plan shall include all of the following:

2           (1) Benchmarks and desired outcomes for each year of  
3       the phase-out.

4           (2) A list of the resources necessary, including  
5       changes to State policy or service and program  
6       reimbursement rates, to ensure that individuals with  
7       disabilities receive support according to the needs and  
8       preferences of the individuals and in an integrated  
9       setting, regardless of the nature or severity of the  
10       individuals' disabilities.

11           (3) A description of alternative revenue options,  
12       including non-subminimum wage programs, for holders of  
13       certificates issued under Section 14(c) of the Fair Labor  
14       Standards Act of 1938.

15           (4) An examination of the measures needed to improve  
16       future employment and day service options for people with  
17       disabilities, including recommendations for new or  
18       reformulated day service strategies and approaches  
19       designed to strengthen statewide capacity to assure  
20       informed choice for integrated employment and integrated  
21       avocational leisure and volunteer options for every  
22       individual with a disability.

23           (5) A timeline and estimated costs for comprehensive  
24       training and certification of individual staff in  
25       supported employment and customized employment. The  
26       training shall also include benefits counseling and

1 education to reduce misinformation that promotes  
2 dependency and discourages income-producing work. Training  
3 audiences shall include the following persons and  
4 organizations:

5 (A) Counselors from the Department's Division of  
6 Rehabilitation Services.

7 (B) Staff from the Department's Division of  
8 Developmental Disabilities.

9 (C) Organizations affiliated with the Department's  
10 Division of Rehabilitation Services or Division of  
11 Developmental Disabilities that are certified to serve  
12 persons with disabilities by the State or federal  
13 government.

14 (D) High school special education and transition  
15 staff.

16 (E) Independent Service Coordination agency staff.

17 (F) Community Work Incentives Coordinators.

18 Training content developed or approved by federal  
19 agencies shall be used, if possible, including training  
20 content from the following agencies:

21 (i) The Office of Disability Employment Policy in  
22 the United States Department of Labor.

23 (ii) The Rehabilitation Services Administration in  
24 the United States Department of Education.

25 (iii) The Administration for Community Living in  
26 the United States Department of Health and Human

1           Services.

2           (iv) The Centers for Medicare and Medicaid  
3           Services in the United States Department of Health and  
4           Human Services.

5           (6) A proposal to modify the Business Enterprise  
6           Program and the State Use Program to ensure future State  
7           contracts are not awarded to entities paying workers less  
8           than the minimum wage and instead are awarded to entities  
9           that promote fully integrated work opportunities.

10          (7) Application for and use of all federal and State  
11          funding programs, including programs available under  
12          Medicaid waiver amendments and resources under the federal  
13          Workforce Innovation and Opportunity Act, to assist  
14          individuals with disabilities to obtain competitive,  
15          integrated employment.

16          (8) The tracking of outcomes of individuals with  
17          disabilities on the basis of:

18               (A) wages;

19               (B) hours worked;

20               (C) unemployment rates;

21               (D) the number of individuals who move from  
22               subminimum wage positions to competitive, integrated  
23               employment;

24               (E) the number of individuals who move from  
25               subminimum wage positions to nonpaying activities;

26               (F) the number of hours of paid supports; and

1           (G) the use and costs of Medicaid for acute health  
2           care and outpatient mental health care costs.

3           (9) In the formulation of the phase-out plan, special  
4           attention must be paid to building adequate capacity in the  
5           disability provider ecosystem to ensure individuals with  
6           all levels of disability can secure competitive,  
7           integrated employment as defined in the federal Workforce  
8           Innovation and Opportunity Act. Special attention must be  
9           given to prevent any systematic shift of income-earning  
10           activity to unpaid day habilitation activity.

11           (c) In implementing the phase-out plan, the Department  
12           shall consult with:

13           (1) the State agencies listed in subsection (a);

14           (2) the ARC of Illinois;

15           (3) the Illinois Association of Rehabilitation  
16           Facilities;

17           (4) the Illinois Network of Centers for Independent  
18           Living;

19           (5) the Illinois Task Force on Employment and Economic  
20           Opportunity for Persons with Disabilities;

21           (6) the Illinois Self-Advocacy Alliance;

22           (7) the Institute on Public Policy for People with  
23           Disabilities;

24           (8) the Great Lakes ADA Center;

25           (9) holders of certificates issued to Community  
26           Rehabilitation Programs under Section 14(c) of the Fair

1 Labor Standards Act of 1938;

2 (10) the Association of People Supporting Employment  
3 First;

4 (11) the Illinois Association of the Deaf;

5 (12) the University Center of Excellence in  
6 Developmental Disabilities;

7 (13) the National Federation of the Blind of Illinois;

8 and

9 (14) any other relevant stakeholders.

10 (d) (1) On or before January 1, 2019, the Secretary of Human  
11 Services shall submit the phase-out plan to the Governor and  
12 the General Assembly.

13 (2) On or before January 1, 2020, January 1, 2021, and  
14 January 1, 2022, the Secretary shall report to the Governor and  
15 the General Assembly on:

16 (A) the benchmarks and status of achieving the outcomes  
17 included in the phase-out plan; and

18 (B) recommendations for funding levels or other  
19 resources necessary to implement the phase-out plan.

20 (20 ILCS 1305/1-80 new)

21 Sec. 1-80. Customized work plans.

22 (a) (1) For each individual who is paid less than the  
23 minimum wage under Sections 5 and 10 of the Minimum Wage Law,  
24 the Department shall develop a written individualized  
25 customized work plan on or before January 1, 2020 that

1 addresses how community integration and employment will be  
2 accomplished.

3 (2) The customized work plan shall be developed with input  
4 from the individual receiving services, and, where applicable,  
5 from the individual's family, the individual's vocational  
6 rehabilitation counselor, and any staff from the Department's  
7 Division of Developmental Disabilities or a Pre-Admission  
8 Screening/Independent Service Coordination agency who have  
9 interacted with the individual concerning employment and other  
10 life goals.

11 (3) The Department shall use appropriate communication  
12 devices and techniques, including sign language, to facilitate  
13 the involvement of the individual in the development of each  
14 customized work plan.

15 (b) Customized work plans shall include all of the  
16 following:

17 (1) A recommendation on jobs and careers that allow the  
18 job seeker to thrive and contribute to an employer's needs.

19 (2) A description of the supports required for the  
20 individual to work, if so desired by the individual, in the  
21 most integrated setting appropriate to complete the tasks  
22 and requirements of his or her job with minimal intrusion.

23 (3) A listing of barriers that prevent the individual  
24 from receiving the services and supports required for the  
25 individual to work in the most integrated setting  
26 appropriate to meet the individual's needs, including:



1           (A) barriers to accessing funding and resources,  
2           including for staffing, transportation, and other  
3           needed services and supports;

4           (B) decision-making by the individual or the  
5           individual's representative, as appropriate;

6           (C) barriers to accessing medical or behavioral  
7           support needs;

8           (D) family members' concerns or opposition; and

9           (E) options for activity other than compensated  
10          employment in the person's life and community.

11          (4) An update on the status and progress made toward  
12          addressing and resolving barriers identified under  
13          paragraph (3) in a previous customized work plan.

14          (c) The Department shall develop, in consultation with  
15          interested stakeholders, the protocol and format for the  
16          customized work plan.

17          (d) (1) The Department shall track the progress of  
18          individuals who have customized work plans by collecting the  
19          following data:

20               (A) the wages of the individuals;

21               (B) the unemployment rates of the individuals;

22               (C) the number of individuals who moved from subminimum  
23               wage positions to competitive, integrated employment;

24               (D) the number of individuals who moved from subminimum  
25               wage positions to nonpaying activities; and

26               (E) the health costs, including outpatient mental

1 health costs, paid by Medicaid for the individuals.

2 (2) On or before January 1, 2021, January 1, 2022, and  
3 January 1, 2023, the Secretary shall submit to the Governor and  
4 the General Assembly a summary of the data collected under  
5 paragraph (1) on a statewide and regional basis. The report to  
6 the General Assembly shall be filed with the Clerk of the House  
7 of Representatives and the Secretary of the Senate in  
8 electronic form only, in the manner that the Clerk and the  
9 Secretary shall direct.

10 Section 10. The Department of Labor Law of the Civil  
11 Administrative Code of Illinois is amended by adding Section  
12 1505-215 as follows:

13 (20 ILCS 1505/1505-215 new)

14 Sec. 1505-215. Special wage certificates; persons with  
15 disabilities.

16 (a) As used in this Section:

17 "Director" means the Director of Labor.

18 "Federal certificate" means a certificate that the United  
19 States Department of Labor issues to a work activities center  
20 or other sheltered workshop to allow the work activities center  
21 or sheltered workshop to pay an individual less than the wage  
22 otherwise required for that individual under the federal Fair  
23 Labor Standards Act of 1938.

24 (b) (1) Subject to the limitations in this Section, the

1 Director may not authorize a work activities center or other  
2 sheltered workshop to pay an employee who has a disability less  
3 than the minimum wage otherwise required under the Minimum Wage  
4 Law for the employee.

5 (2) Beginning January 1, 2020, the Director may not  
6 authorize a work activities center or other sheltered workshop  
7 to pay an employee with a disability less than the minimum wage  
8 if the work activities center or sheltered workshop was not  
9 authorized to do so before January 1, 2019 by the United States  
10 Department of Labor.

11 (c)(1) To authorize a work activities center or other  
12 sheltered workshop to pay less than the minimum wage, the  
13 Director shall:

14 (A) issue a State certificate that sets wages for  
15 employees of the work activities center or sheltered  
16 workshop;

17 (B) accept a federal certificate for the work  
18 activities center or sheltered workshop; or

19 (C) grant an exception for the work activities center  
20 or sheltered workshop, but only if:

21 (i) the Director has not issued a State certificate  
22 to the work activities center or sheltered workshop;

23 (ii) the work activities center or sheltered  
24 workshop is not eligible for a federal certificate; and

25 (iii) the Director investigates and holds a  
26 hearing on the exception.

1       (2) The Director shall accept a federal certificate if a  
2 work activities center or other sheltered workshop submits that  
3 federal certificate to the Director within 10 days after the  
4 work activities center or sheltered workshop receives the  
5 federal certificate.

6       (d) (1) Each certificate that the Director issues under this  
7 Section shall state the period for which the certificate is in  
8 effect.

9       (2) The acceptance of a federal certificate does not apply  
10 automatically to an individual whom a work activities center or  
11 other sheltered workshop continues to employ after the  
12 individual completes a training program that the work  
13 activities center or sheltered workshop runs.

14       (e) (1) The Director may revoke acceptance of a federal  
15 certificate if:

16           (A) the United States Department of Labor revokes the  
17 federal certificate; or

18           (B) at any time before revocation by the Department of  
19 Labor and after an investigation and hearing, the Director  
20 finds good cause to revoke the acceptance.

21       (2) The Director shall send notice of a hearing under this  
22 subsection, by certified mail, to the holder of the federal  
23 certificate at least 30 days before the hearing.

24       Section 15. The Illinois Council on Developmental  
25 Disabilities Law is amended by adding Section 2008 as follows:

1 (20 ILCS 4010/2008 new)

2 Sec. 2008. Independent study on phase-out and customized  
3 work plans.

4 (a) The Illinois Council on Developmental Disabilities  
5 shall:

6 (1) commission an independent study of the phase-out  
7 plan and the customized work plans described in Sections  
8 1-75 and 1-80 of the Department of Human Services Act;

9 (2) determine through the study:

10 (A) whether the plans are having their intended  
11 effects;

12 (B) how many people have transitioned from  
13 subminimum wage work to competitive, integrated  
14 employment opportunities;

15 (C) whether there are any significant, related,  
16 regional, or demographic trends; and

17 (D) whether there are health care savings or costs  
18 as a result of the plans; and

19 (3) make any related recommendations for possible  
20 changes in State law or policy regarding the employment of  
21 individuals with disabilities.

22 (b) On or before July 1, 2021, the Illinois Council on  
23 Developmental Disabilities shall report its findings and  
24 recommendations to the Governor and the General Assembly. The  
25 report to the General Assembly shall be filed with the Clerk of

1 the House of Representatives and the Secretary of the Senate in  
2 electronic form only, in the manner that the Clerk and the  
3 Secretary shall direct.

4 Section 20. The Minimum Wage Law is amended by changing  
5 Section 10 as follows:

6 (820 ILCS 105/10) (from Ch. 48, par. 1010)

7 Sec. 10. (a) The Director shall make and revise  
8 administrative regulations, including definitions of terms, as  
9 he deems appropriate to carry out the purposes of this Act, to  
10 prevent the circumvention or evasion thereof, and to safeguard  
11 the minimum wage established by the Act. Regulations governing  
12 employment of learners may be issued only after notice and  
13 opportunity for public hearing, as provided in subsection (c)  
14 of this Section.

15 (b) (Blank). ~~In order to prevent curtailment of~~  
16 ~~opportunities for employment, avoid undue hardship, and~~  
17 ~~safeguard the minimum wage rate under this Act, the Director~~  
18 ~~may also issue regulations providing for the employment of~~  
19 ~~workers with disabilities at wages lower than the wage rate~~  
20 ~~applicable under this Act, under permits and for such periods~~  
21 ~~of time as specified therein; and providing for the employment~~  
22 ~~of learners at wages lower than the wage rate applicable under~~  
23 ~~this Act. However, such regulation shall not permit lower wages~~  
24 ~~for persons with disabilities on any basis that is unrelated to~~

1 ~~such person's ability resulting from his disability, and such~~  
2 ~~regulation may be issued only after notice and opportunity for~~  
3 ~~public hearing as provided in subsection (c) of this Section.~~

4 (c) Prior to the adoption, amendment or repeal of any rule  
5 or regulation by the Director under this Act, except  
6 regulations which concern only the internal management of the  
7 Department of Labor and do not affect any public right provided  
8 by this Act, the Director shall give proper notice to persons  
9 in any industry or occupation that may be affected by the  
10 proposed rule or regulation, and hold a public hearing on his  
11 proposed action at which any such affected person, or his duly  
12 authorized representative, may attend and testify or present  
13 other evidence for or against such proposed rule or regulation.  
14 Rules and regulations adopted under this Section shall be filed  
15 with the Secretary of State in compliance with "An Act  
16 concerning administrative rules", as now or hereafter amended.  
17 Such adopted and filed rules and regulations shall become  
18 effective 10 days after copies thereof have been mailed by the  
19 Department to persons in industries affected thereby at their  
20 last known address.

21 (d) The commencement of proceedings by any person aggrieved  
22 by an administrative regulation issued under this Act does not,  
23 unless specifically ordered by the Court, operate as a stay of  
24 that administrative regulation against other persons. The  
25 Court shall not grant any stay of an administrative regulation  
26 unless the person complaining of such regulation files in the

1 Court an undertaking with a surety or sureties satisfactory to  
2 the Court for the payment to the employees affected by the  
3 regulation, in the event such regulation is affirmed, of the  
4 amount by which the compensation such employees are entitled to  
5 receive under the regulation exceeds the compensation they  
6 actually receive while such stay is in effect.

7 (Source: P.A. 99-143, eff. 7-27-15.)

8 (820 ILCS 105/5 rep.)

9 Section 25. The Minimum Wage Law is amended by repealing  
10 Section 5.

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law, except that Sections 20 and 25 of this Act take  
13 effect July 1, 2022."