

117TH CONGRESS
1ST SESSION

S. 3238

To assist employers providing employment under special certificates issued under section 14(c) of the Fair Labor Standards Act of 1938 in transforming their business and program models to models that support people with disabilities through competitive integrated employment, to phase out the use of such special certificates, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2021

Mr. CASEY (for himself and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To assist employers providing employment under special certificates issued under section 14(c) of the Fair Labor Standards Act of 1938 in transforming their business and program models to models that support people with disabilities through competitive integrated employment, to phase out the use of such special certificates, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Transformation to
3 Competitive Integrated Employment Act”.

4 **SEC. 2. TABLE OF CONTENTS.**

Sec. 1. Short title.
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Sec. 3. Purposes.

TITLE I—COMPETITIVE INTEGRATED EMPLOYMENT
TRANSFORMATION GRANT PROGRAMS

Sec. 101. Program authorized.
Sec. 102. State grant program.
Sec. 103. Certificate holder grant program.

TITLE II—PHASE OUT OF SPECIAL CERTIFICATES UNDER
SECTION 14(c) OF THE FAIR LABOR STANDARDS ACT OF 1938

Sec. 201. Transition to fair wages for people with disabilities.
Sec. 202. Prohibition on new special certificates; sunset.

TITLE III—TECHNICAL ASSISTANCE AND DISSEMINATION

Sec. 301. Technical Assistance and dissemination.

TITLE IV—REPORTING AND EVALUATION

Sec. 401. Impact evaluation and reporting.
Sec. 402. Wage and hour reports.

TITLE V—GENERAL PROVISIONS

Sec. 501. Definitions.
Sec. 502. Authorization of appropriations.

5 **SEC. 3. PURPOSES.**

6 The purposes of this Act are to—

7 (1) assist employers with special certificates
8 issued under section 14(c) of the Fair Labor Stand-
9 ards Act of 1938 (29 U.S.C. 214(c)) to transform
10 their business and program operations to models
11 that support people with disabilities to find and re-
12 tain work in competitive integrated employment;

1 (2) ensure people with disabilities, families of
2 such people, State and local governments, and other
3 stakeholders are involved in the transformations de-
4 scribed in paragraph (1);

5 (3) ensure people employed in programs using
6 such special certificates transition to competitive in-
7 tegrated employment positions and, as needed, to in-
8 tegrated services that support them in their homes
9 and in community settings;

10 (4) identify models and processes for shifting
11 business and program models from such special cer-
12 tificates to competitive integrated employment mod-
13 els and integrated community participation and
14 wraparound services, and to share that information
15 with other such special certificate holders, State and
16 local entities, and other service providers for people
17 with disabilities; and

18 (5) support States and local governments as
19 they revise and implement their Olmstead plans and
20 local plans, respectively, in order to improve com-
21 petitive integrated employment outcomes for people
22 with disabilities through all State workforce develop-
23 ment systems.

1 **TITLE I—COMPETITIVE INTE-**
 2 **GRATED EMPLOYMENT**
 3 **TRANSFORMATION GRANT**
 4 **PROGRAMS**

5 **SEC. 101. PROGRAM AUTHORIZED.**

6 From the amounts appropriated to carry out this
 7 title, the Secretary of Labor shall award grants under sec-
 8 tions 102 and 103, on a competitive basis, to States and
 9 eligible entities to assist employers who were issued special
 10 certificates in transforming their business and program
 11 models from providing employment using such special cer-
 12 tificates to business and program models that employ and
 13 support people with disabilities by—

14 (1) providing competitive integrated employ-
 15 ment, including by compensating all employees of
 16 the employer at a rate that is—

17 (A) not less than the higher of the rate
 18 specified in section 6(a)(1) of the Fair Labor
 19 Standards Act of 1938 (29 U.S.C. 206(a)(1))
 20 or the rate specified in the applicable State or
 21 local minimum wage law; and

22 (B) not less than the customary rate paid
 23 by the employer for the same or similar work
 24 performed by other employees who are not peo-
 25 ple with disabilities, and who are similarly situ-

1 ated in similar occupations by the same em-
 2 ployer and who have similar training, experi-
 3 ence, and skills;

4 (2) assisting people with disabilities who were
 5 employed by the employer in finding and retaining
 6 work in competitive integrated employment, which
 7 work may be with the employer after such trans-
 8 formation or in another competitive integrated em-
 9 ployment setting;

10 (3) providing integrated community participa-
 11 tion and wraparound services for people with disabil-
 12 ities; and

13 (4) ensuring all such services and other non-
 14 employment services offered by the employer comply
 15 with the requirements for home and community-
 16 based services under the Home and Community-
 17 Based Services (HCBS) final rule published on Jan-
 18 uary 16, 2014 (79 Fed. Reg. 2948), or a successor
 19 rule.

20 **SEC. 102. STATE GRANT PROGRAM.**

21 (a) APPLICATION.—

22 (1) IN GENERAL.—To be eligible to receive a
 23 grant under this section, a State shall submit an ap-
 24 plication to the Secretary at such time, in such man-

ner, and including such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted under paragraph (1) shall include—

(A) a description of the status of the employers in the State providing employment using special certificates, including—

(i) the number of employers in the State using special certificates to employ and pay people with disabilities;

(ii) the number of employers described in clause (i) that also employ people with disabilities in competitive integrated employment, which shall include employers providing such employment in combination with integrated services;

(iii) the number of employees employed under a special certificate, disaggregated by—

(I) employer; and

(II) demographic characteristics, including gender, race, ethnicity, and type of disability, unless indicating such characteristics would disclose personal identifying information;

1 (iv) the average, median, minimum,
2 and maximum number of hours such em-
3 ployees work per week, disaggregated by
4 employer, and reported for the State as a
5 whole; and

6 (v) the average, median, minimum,
7 and maximum hourly wage for such em-
8 ployees, disaggregated by employer, and
9 reported for the State as a whole;

10 (B) a description of the activities of the
11 State with respect to competitive integrated em-
12 ployment for people with disabilities, including,
13 as applicable—

14 (i) a copy of the State plan for car-
15 rying out the Employment First initiative;

16 (ii) a copy of the Olmstead plan of the
17 State;

18 (iii) a description of activities related
19 to the development and promotion of
20 ABLE accounts; and

21 (iv) a description of the medical as-
22 sistance provided by the State through a
23 Medicaid buy-in eligibility pathway under
24 subclause (XV) or (XVI) of section
25 1902(a)(10)(A)(ii) of the Social Security

1 Act (42 U.S.C. 1396a(a)(10)(A)(ii)), in-
2 cluding any premiums or other cost shar-
3 ing imposed on individuals who enroll in
4 the State Medicaid program through such
5 a pathway;

6 (C) a description of activities to be funded
7 under the grant, and the goals of such activi-
8 ties, including—

9 (i) the process to be used to identify
10 each employer in the State that will trans-
11 form its business and program models
12 from employing people with disabilities
13 using special certificates to employing peo-
14 ple with disabilities in competitive inte-
15 grated employment settings, or a setting
16 involving a combination of competitive in-
17 tegrated employment and integrated serv-
18 ices;

19 (ii) the number of such employers in
20 the State that will carry out a trans-
21 formation described in clause (i);

22 (iii) the service delivery infrastructure
23 that will be implemented in the State to
24 support people with disabilities who have
25 been employed under special certificates

1 through such a transformation, including
2 providing enhanced integrated services to
3 support people with the most significant
4 disabilities;

5 (iv) a description of the process to re-
6 cruit and engage Federal, State, and local
7 governments and nonprofit and private em-
8 ployers to hire people with disabilities into
9 competitive integrated employment who
10 have been employed under special certifi-
11 cates;

12 (v) the competitive integrated employ-
13 ment and integrated services that will be
14 implemented in the State to support such
15 people;

16 (vi) a timeline for assisting employers
17 that operate in the State in phasing out
18 employment using special certificates,
19 which shall not extend past the date on
20 which the legal effect of such certificates
21 expires under section 14(c)(7) of the Fair
22 Labor Standards Act of 1938 (29 U.S.C.
23 214(c)(7)), as added by title II;

24 (vii) a timeline for the expansion of
25 employers that will provide competitive in-

1 tegrated employment, or a combination of
2 competitive integrated employment and in-
3 tegrated services, to people with disabilities
4 who have been employed by such employers
5 under special certificates;

6 (viii) a description of the expanded
7 competitive integrated employment and in-
8 tegrated services to be provided to such
9 people as a result of transformations de-
10 scribed in clause (i); and

11 (ix) a description of the process to be
12 used to engage stakeholders in such trans-
13 formations;

14 (D) a description of how the activities
15 under the grant will coordinate and align Fed-
16 eral, State, and local programs, agencies, and
17 funding in the transformations described in
18 subparagraph (C)(i);

19 (E) a description of the State's evaluation
20 plan to determine the social and economic im-
21 pact of the grant, including the impact (as
22 measured throughout the transformation and
23 the 2-year period after the State has assisted
24 employers in phasing out employment using
25 special certificates) on—

1 (i) the employment status of people
2 with disabilities in the State, including the
3 number of hours worked, average wages,
4 and job satisfaction, of such people; and

5 (ii) changes in provider capacity to
6 support competitive integrated employment
7 and integrated services;

8 (F) assurances that—

9 (i) the activities carried out under the
10 grant will result in each employer in the
11 State that provides employment using spe-
12 cial certificates on the date of enactment of
13 this Act transforming as described in sub-
14 paragraph (C)(i);

15 (ii) people with the most significant
16 disabilities, including intellectual and de-
17 velopmental disabilities, who will be af-
18 fected by such a transformation will be
19 given priority in receiving the necessary
20 competitive integrated employment sup-
21 ports and integrated services to succeed
22 during and after such a transformation;

23 (iii) each individual in the State who
24 is employed under a special certificate will,
25 as a result of such a transformation, be

1 given an opportunity to be employed in
2 competitive integrated employment;

3 (iv) at a minimum, the State agencies
4 responsible for developmental disability
5 services, Medicaid, education, vocational
6 rehabilitation, mental health services,
7 transportation, and workforce development
8 agree to be partners in the goals of the
9 grant;

10 (v) until the date that is 2 years after
11 the legal effect of special certificates ex-
12 pires under section 14(c)(7) of the Fair
13 Labor Standards Act of 1938 (29 U.S.C.
14 214(c)(7)), as added by title II, the State
15 will comply with requirements of the Sec-
16 retary with respect to the collection of
17 data, and will require employers providing
18 employment under special certificates in
19 the State to comply with such require-
20 ments;

21 (vi) the State will cooperate with the
22 evaluation under title IV by providing all
23 data required and allow the evaluation of
24 activities under the grant;

1 (vii) the State will establish an advisory
2 council described in paragraph (3) to
3 monitor and guide the process of transforming
4 business and program models of
5 employers in the State as described in sub-
6 paragraph (C)(i);

7 (viii) the State will cooperate with the
8 nonprofit entity carrying out technical assistance
9 and dissemination activities under
10 title III;

11 (ix) all integrated services and non-
12 employment services offered by employers
13 in the State will comply with—

14 (I) the requirements for home
15 and community-based services under
16 the Home and Community-Based
17 Services (HCBS) final rule published
18 on January 16, 2014 (79 Fed. Reg.
19 2948), or a successor rule;

20 (II) the holding of the Olmstead
21 decision; and

22 (III) the Americans with Disabilities
23 Act of 1990 (42 U.S.C. 12101 et
24 seq.); and

1 (x) the State will disseminate informa-
2 tion to all people with disabilities employed
3 under special certificates regarding the
4 availability of—

5 (I) ABLE accounts and other
6 asset developmental options for people
7 with disabilities;

8 (II) the Ticket to Work and Self
9 Sufficiency Program established under
10 section 1148 of the Social Security
11 Act (42 U.S.C. 1320b–19); and

12 (III) other resources related to
13 benefits counseling for people with
14 disabilities who wish to work or are
15 working in competitive integrated em-
16 ployment settings; and

17 (G) such other information and assurances
18 as the Secretary may reasonably require.

19 (3) MEMBERS OF THE ADVISORY COUNCIL.—A
20 State receiving a grant under this section shall, for
21 the purpose described in paragraph (2)(F)(vii), es-
22 tablish an advisory council composed of the fol-
23 lowing:

24 (A) People with disabilities, including such
25 people with intellectual and developmental dis-

1 abilities who are or were employed under a spe-
2 cial certificate, who shall comprise not less than
3 25 percent of the members.

4 (B) A family member of a person with an
5 intellectual or developmental disability who is
6 employed under a special certificate.

7 (C) A family member of a person with an
8 intellectual or developmental disability who is
9 employed in competitive integrated employment.

10 (D) An employer providing competitive in-
11 tegrated employment.

12 (E) An employer providing employment
13 under special certificates.

14 (F) A representative of a nonprofit agency
15 or organization specializing in competitive inte-
16 grated employment.

17 (G) A representative of the State develop-
18 mental disability agency.

19 (H) A representative of the State voca-
20 tional rehabilitation agency, as such term is
21 used under the Rehabilitation Act of 1973 (29
22 U.S.C. 701 et seq.).

23 (I) A representative of an agency in the
24 State described in paragraph (6) or (7) of sec-
25 tion 8501 of title 41, United States Code.

1 (J) A representative of the State inde-
2 pendent living centers, as such term is used
3 under the Rehabilitation Act of 1973 (29
4 U.S.C. 701 et seq.).

5 (K) A representative of the State Council
6 on Developmental Disabilities, as defined in sec-
7 tion 102 of the Developmental Disabilities As-
8 sistance and Bill of Rights Act of 2000 (42
9 U.S.C. 15002).

10 (L) A representative of one of the State
11 University Centers for Excellence in Develop-
12 mental Disabilities Education, Research, and
13 Service, established under subtitle D of title I
14 of the Developmental Disabilities Assistance
15 and Bill of Rights Act of 2000 (42 U.S.C.
16 15061 et seq.).

17 (M) A representative of the State protec-
18 tion and advocacy system, as defined in section
19 102 of the Developmental Disabilities Assist-
20 ance and Bill of Rights Act of 2000 (42 U.S.C.
21 15002).

22 (N) A representative of the State Medicaid
23 office.

24 (O) Representatives of other State agencies
25 and disability organizations and other disability

1 related offices and groups with expertise in
2 competitive integrated employment.

3 (b) GEOGRAPHIC DIVERSITY.—To the extent prac-
4 ticable, the Secretary shall distribute grant funds under
5 this section equitably among geographic areas of the
6 United States, and take into account rural and urban di-
7 versity.

8 (c) DURATION OF AWARDS.—A grant under this sec-
9 tion shall be awarded for a period of 5 years.

10 (d) LIMIT ON AWARD NUMBER.—A State may only
11 be awarded 1 grant under this section.

12 (e) AMOUNT OF AWARDS.—A grant awarded under
13 this section may not be made in an amount that is less
14 than \$3,000,000, or more than \$15,000,000, for the 5-
15 year grant period.

16 (f) ADDITIONAL FUNDING FOR SUPPORTED EMPLOY-
17 MENT SERVICES.—

18 (1) IN GENERAL.—Title VI of the Rehabilita-
19 tion Act of 1973 is amended—

20 (A) in section 603 (29 U.S.C. 795h)—

21 (i) in subsection (a), by adding at the
22 end the following:

23 “(3) REFERENCES.—For purposes of this sub-
24 section, any reference in this subsection to sums or

1 amounts appropriated shall not include the amounts
 2 appropriated under section 611(e).”;

3 (ii) in subsection (c)—

4 (I) by inserting “or a grant
 5 under section 611” after “allotment
 6 under this title”; and

7 (II) by inserting “or such grant”
 8 after “such allotment”; and

9 (iii) in subsection (d)—

10 (I) by inserting “or a grant
 11 under section 611” after “allotment
 12 under this title”; and

13 (II) by inserting “or such grant”
 14 after “such allotment”;

15 (B) in section 604(b)(2) (29 U.S.C.
 16 795i(b)(2)), by inserting “(or made available
 17 through a grant awarded under section 611)”
 18 after “allotted under this title”;

19 (C) in section 610 (29 U.S.C. 795o)—

20 (i) by inserting “, except for section
 21 611,” after “this title”;

22 (ii) by striking “and”; and

23 (iii) by inserting “, and such sums as
 24 may be necessary for each of fiscal years

1 2022 through 2031” before the period at
 2 the end; and

3 (D) by adding at the end the following:

4 **“SEC. 611. ADDITIONAL FUNDING FOR CERTAIN STATES**
 5 **WITH COMPETITIVE INTEGRATED EMPLOY-**
 6 **MENT.**

7 “(a) GRANTS.—From amounts appropriated under
 8 subsection (e), the Secretary, in consultation with the Sec-
 9 retary of Labor, shall award a grant under this section
 10 to each eligible State that submits an application under
 11 subsection (c) for the purposes described in section 604.

12 “(b) ELIGIBILITY.—

13 “(1) IN GENERAL.—A State is eligible for a
 14 grant under this section for a fiscal year if the
 15 State—

16 “(A) is eligible for an allotment under sec-
 17 tion 603(a) for the fiscal year; and

18 “(B) has successfully completed a grant
 19 under section 102 of the Transformation to
 20 Competitive Integrated Employment Act during
 21 that fiscal year or the preceding fiscal year, as
 22 determined under paragraph (2).

23 “(2) SUCCESSFULLY COMPLETING A COMPETI-
 24 TIVE INTEGRATED EMPLOYMENT GRANT.—A State
 25 has successfully completed a grant under section

1 102 of the Transformation to Competitive Inte-
2 grated Employment Act if, at the conclusion of the
3 5-year period of the grant, the Secretary of Labor
4 determines the State has complied with all require-
5 ments under such section for such grant.

6 “(c) APPLICATION.—A State seeking a grant under
7 this section shall submit an application to the Secretary
8 at such time, in such manner, and containing such infor-
9 mation as the Secretary may reasonably require, including
10 information demonstrating the State has successfully com-
11 plied with the requirements under subsection (b)(2).

12 “(d) AWARDS.—

13 “(1) IN GENERAL.—A grant to a State under
14 this section shall be awarded in an amount deter-
15 mined under paragraph (2) for each of 5 fiscal
16 years, except as provided under paragraph (3).

17 “(2) AMOUNT.—Subject to available appropria-
18 tions under subsection (e), the amount of a grant
19 under this section to a State for a fiscal year shall
20 be equal to 25 percent of the amount allotted to
21 such State under subsection (a) of section 603 for
22 the preceding fiscal year (excluding any additional
23 amounts allotted to the State under subsection (b)
24 of such section).

1 “(3) CONTINUED COMPLIANCE.—In the case
 2 that a State receiving a grant under this section
 3 ceases compliance with subsection (b)(2) for a fiscal
 4 year—

5 “(A) no amounts shall be awarded through
 6 such grant for such fiscal year; or

7 “(B) if such amounts have already been
 8 awarded to the State for such fiscal year, the
 9 State shall return to the Secretary such
 10 amounts.

11 “(4) COMPETITIVE INTEGRATED EMPLOYMENT
 12 FUND.—

13 “(A) ESTABLISHMENT OF FUND.—There
 14 is established in the Treasury of the United
 15 States a fund to be known as the ‘Competitive
 16 Integrated Employment Fund’ (referred to in
 17 this paragraph as the ‘Fund’).

18 “(B) DEPOSITS.—The Secretary shall de-
 19 posit into the Fund any amount received under
 20 paragraph (3)(B).

21 “(C) USE OF FUND AMOUNTS.—Amounts
 22 in the Fund shall be available to the Secretary
 23 of Labor, without fiscal year limitation, for ac-
 24 tivities to increase competitive integrated em-

1 ployment opportunities for people with disabil-
2 ities.

3 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated for each of fiscal years
5 2027 through 2031 such sums as may be necessary to
6 carry out this section.”.

7 (2) TABLE OF CONTENTS.—The table of con-
8 tents in section 1(b) of the Rehabilitation Act of
9 1973 is amended by inserting after the item relating
10 to section 610 the following:

“Sec. 611. Additional funding for certain States with competitive integrated
employment.”.

11 **SEC. 103. CERTIFICATE HOLDER GRANT PROGRAM.**

12 (a) IN GENERAL.—To be eligible to receive a grant
13 under this section, an eligible entity shall submit an appli-
14 cation to the Secretary at such time, in such manner, and
15 including such information as the Secretary may reason-
16 ably require.

17 (b) CONTENTS.—Each application submitted under
18 subsection (a) shall include—

19 (1) the status of the eligible entity’s use of spe-
20 cial certificates to employ people with disabilities, in-
21 cluding—

22 (A)(i) the number of employees the eligible
23 entity employs using such special certificates at
24 the time of submission of the application;

1 (ii) the aggregate demographic profile of
2 such employees, including gender, race, and
3 type of disability of such employees, unless indi-
4 cating such demographic profile would disclose
5 personal identifying information; and

6 (iii) an historical accounting, covering each
7 of the previous 4 fiscal years, of—

8 (I) the number of employees with a
9 disability working for a wage that is—

10 (aa) less than the higher of the
11 rate specified in section 6(a)(1) of the
12 Fair Labor Standards Act of 1938
13 (29 U.S.C. 206(a)(1)) or the rate
14 specified in the applicable State or
15 local minimum wage law; or

16 (bb) less than the customary rate
17 paid by the employer for the same or
18 similar work performed by other em-
19 ployees who are not people with dis-
20 abilities, and who are similarly situ-
21 ated in similar occupations by the
22 same employer and who have similar
23 training, experience, and skills; and

1 (II) an aggregate demographic profile
2 of such employees including gender, race,
3 ethnicity, age, and type of disability;

4 (B) the average, minimum, maximum, and
5 range of hourly wages paid to employees em-
6 ployed using such special certificates during the
7 previous year;

8 (C) during the preceding 5 fiscal years, the
9 number of people with disabilities,
10 disaggregated by fiscal year, who have been
11 transitioned by the eligible entity from employ-
12 ment under such special certificates to competi-
13 tive integrated employment; and

14 (D) a description of the business and pro-
15 gram models (including the financial and orga-
16 nizational structure) of the eligible entity that
17 is using the special certificates, including—

18 (i) the number and type of contracts
19 the entity has entered into during the pre-
20 ceding 5 fiscal years to supply goods or
21 services, including an indication for each
22 such contract of whether people with dis-
23 abilities are employed under the contract;

1 (ii) the budget and the funding struc-
2 ture, including all sources of funding, for
3 the preceding 5 fiscal years;

4 (iii) the human resource structure;
5 and

6 (iv) the entities partnering with the
7 eligible entity as described in subsection
8 (h)(2);

9 (2) a description of activities to be funded
10 under the grant, and the goals of such activities, in-
11 cluding—

12 (A) a description of the business and pro-
13 gram models of competitive integrated employ-
14 ment or a combination of competitive integrated
15 employment, integrated services, and other com-
16 panionship and personal support services, into
17 which the models of the eligible entity will
18 transform, including the business plan, employ-
19 ment structure, and leadership organization of
20 the eligible entity;

21 (B) a description of—

22 (i) the integrated services to be pro-
23 vided by the eligible entity; or

24 (ii) the eligible entity's process for re-
25 ferring an individual requiring such serv-

1 ices to a provider of such services to en-
2 sure that the individual receives such serv-
3 ices;

4 (C) after the transformation of the eligible
5 entity's business and program models as de-
6 scribed in subparagraph (A), the number of em-
7 ployees that will be employed under such mod-
8 els;

9 (D) the date on which the eligible entity
10 will discontinue using special certificates, and
11 the funding structure the eligible entity will use
12 to provide competitive integrated employment
13 or a combination of such employment and inte-
14 grated services; and

15 (E) the process to be used for the trans-
16 formation of the eligible entity's business and
17 program models as described in subparagraph
18 (A), including—

- 19 (i) redesign of contracts;
20 (ii) changes in funding sources;
21 (iii) staff training on competitive inte-
22 grated employment support and practices;
23 (iv) input from key stakeholders, in-
24 cluding people with disabilities, their fami-
25 lies, and other local stakeholders; and

1 (v) a description of the individuals
2 who will be responsible for the development
3 and implementation of such process;

4 (3) a description of the process to recruit and
5 engage Federal, State, and local governments and
6 nonprofit and private employers to hire people with
7 disabilities who have been employed under special
8 certificates;

9 (4) a timeline of activities to be implemented
10 and goals to be reached on at least a quarterly basis
11 during the 3-year grant period;

12 (5) a description of how the activities under the
13 grant will coordinate and align Federal, State, and
14 local programs, agencies, and funding in the trans-
15 formation described in paragraph (2)(A);

16 (6) assurances that—

17 (A) the activities carried out under the
18 grant will result in the transformation described
19 in paragraph (2)(A);

20 (B) people with disabilities who are em-
21 ployed by the eligible entity under special cer-
22 tificates will be employed in competitive inte-
23 grated employment;

1 (C) the eligible entity will comply with the
2 requirements of the Secretary with respect to
3 the collection of data;

4 (D) the eligible entity will cooperate in the
5 evaluation described in title IV by providing all
6 data required and allow evaluation of the activi-
7 ties under the grant; and

8 (E) the eligible entity will cooperate with
9 the nonprofit entity carrying out technical as-
10 sistance and dissemination required under title
11 III;

12 (7) a description of the eligible entity's evalua-
13 tion plan to determine the impact of the grant;

14 (8) assurances of collaboration and support
15 from all State entities involved in supporting people
16 with disabilities to secure competitive integrated em-
17 ployment, including the State Medicaid agency, the
18 State developmental disability agency, the State vo-
19 cational rehabilitation agency, the State department
20 of education, and the State board, and other State
21 and local governmental entities (including the local
22 board) and organizations that support trans-
23 formations to providing competitive integrated em-
24 ployment and integrated services for employees em-
25 ployed under a special certificate; and

1 (9) such other information and assurances as
2 the Secretary may reasonably require.

3 (c) GEOGRAPHIC DIVERSITY.—To the extent prac-
4 ticable, the Secretary shall distribute grant funds under
5 this section equitably among geographic areas of the
6 United States, and shall take into account rural and urban
7 diversity.

8 (d) PROGRAM SIZE.—To the extent practicable, the
9 Secretary shall distribute grant funds under this section
10 equitably among eligible entities providing employment
11 using special certificates serving different numbers of peo-
12 ple.

13 (e) DURATION OF AWARDS.—

14 (1) GRANT PERIOD.—A grant awarded under
15 this section shall be awarded for a period of 3 years.

16 (2) GRANT CYCLES.—Grants shall be awarded
17 under this section in 2 grant cycles. Grants for the
18 second grant cycle shall be awarded not earlier than
19 the end of the second year of the first 3-year grant
20 cycle.

21 (f) LIMIT ON AWARD NUMBER.—An eligible entity
22 may only be awarded 1 grant total under this section.

23 (g) AMOUNT OF AWARDS.—A grant awarded under
24 this section may not be made in an amount that is less

1 than \$200,000, or more than \$750,000, for the 3-year
2 grant period.

3 (h) ELIGIBLE ENTITY DEFINED.—In this title, the
4 term “eligible entity” means an entity that—

5 (1) employs people with disabilities under spe-
6 cial certificates and is located in a State that did not
7 receive a grant under section 102; and

8 (2) partners with at least 2 entities with experi-
9 ence providing support to people with disabilities in
10 competitive integrated employment, such as—

11 (A) an employer providing competitive in-
12 tegrated employment;

13 (B) a State developmental disability agen-
14 cy;

15 (C) a State mental health services agency;

16 (D) a representative of an agency de-
17 scribed in paragraph (6) or (7) of section 8501
18 of title 41, United States Code;

19 (E) a representative of the State Council
20 on Developmental Disabilities, as defined in sec-
21 tion 102 of the Developmental Disabilities As-
22 sistance and Bill of Rights Act of 2000 (42
23 U.S.C. 15002);

24 (F) a representative of the State vocational
25 rehabilitation agency, as such term is used

1 under the Rehabilitation Act of 1973 (29
2 U.S.C. 701 et seq.);

3 (G) a representative of the State inde-
4 pendent living centers, as such term is used
5 under the Rehabilitation Act of 1973 (29
6 U.S.C. 701 et seq.);

7 (H) a representative of one of the State
8 University Centers for Excellence in Develop-
9 mental Disabilities Education, Research, and
10 Service, established under subtitle D of title I
11 of the Developmental Disabilities Assistance
12 and Bill of Rights Act of 2000 (42 U.S.C.
13 15061 et seq.);

14 (I) a representative of the State protection
15 and advocacy system, as defined in section 102
16 of the Developmental Disabilities Assistance
17 and Bill of Rights Act of 2000 (42 U.S.C.
18 15002); and

19 (J) a nonprofit agency or organization spe-
20 cializing in competitive integrated employment.

1 **TITLE II—PHASE OUT OF SPE-**
 2 **CIAL CERTIFICATES UNDER**
 3 **SECTION 14(c) OF THE FAIR**
 4 **LABOR STANDARDS ACT OF**
 5 **1938**

6 **SEC. 201. TRANSITION TO FAIR WAGES FOR PEOPLE WITH**
 7 **DISABILITIES.**

8 (a) IN GENERAL.—Subparagraph (A) of section
 9 14(c)(1) of the Fair Labor Standards Act of 1938 (29
 10 U.S.C. 214(c)(1)) is amended to read as follows:

11 “(A) at a rate that equals, or exceeds, the
 12 greater of—

13 “(i)(I) 60 percent of the wage rate in
 14 effect under section 6(a)(1), beginning 1
 15 year after the date of enactment of the
 16 Transformation to Competitive Integrated
 17 Employment Act;

18 “(II) 70 percent of the wage rate in
 19 effect under section 6(a)(1), beginning 2
 20 years after such date of enactment;

21 “(III) 80 percent of the wage rate in
 22 effect under section 6(a)(1), beginning 3
 23 years after such date of enactment;

1 “(IV) 90 percent of the wage rate in
 2 effect under section 6(a)(1), beginning 4
 3 years after such date of enactment; and

4 “(V) the wage rate in effect under
 5 section 6(a)(1), beginning 5 years after
 6 such date of enactment; or

7 “(ii) the wage rate in effect on the
 8 day before the date of enactment of the
 9 Transformation to Competitive Integrated
 10 Employment Act for the employment,
 11 under a special certificate issued under
 12 this paragraph, of the individual for whom
 13 the wage rate is determined under this
 14 paragraph;”.

15 (b) EFFECTIVE DATE.—The amendment made by
 16 subsection (a) shall take effect on the date that is 1 year
 17 after the date of enactment of this Act.

18 **SEC. 202. PROHIBITION ON NEW SPECIAL CERTIFICATES;**

19 **SUNSET.**

20 Section 14(c) of the Fair Labor Standards Act of
 21 1938 (29 U.S.C. 214(c)) (as amended by section 201),
 22 is further amended by adding at the end the following:

23 “(6) PROHIBITION ON NEW SPECIAL CERTIFI-
 24 CATES.—Notwithstanding paragraph (1), the Sec-
 25 retary shall not issue a special certificate under this

1 subsection to an employer that was not issued a spe-
 2 cial certificate under this subsection before the date
 3 of enactment of the Transformation to Competitive
 4 Integrated Employment Act.

5 “(7) SUNSET.—Beginning on the day after the
 6 date that is 5 years after the date of enactment of
 7 the Transformation to Competitive Integrated Em-
 8 ployment Act—

9 “(A) the authority to issue special certifi-
 10 cates under paragraph (1) shall expire; and

11 “(B) no special certificates issued under
 12 paragraph (1) shall have any legal effect.”.

13 **TITLE III—TECHNICAL ASSIST-** 14 **ANCE AND DISSEMINATION**

15 **SEC. 301. TECHNICAL ASSISTANCE AND DISSEMINATION.**

16 (a) GRANT AUTHORIZED.—From the amounts appro-
 17 priated for this title, the Secretary (acting through the
 18 Office of Disability Employment Policy in partnership
 19 with the Employment and Training Administration), in
 20 partnership with the Administration for Community Liv-
 21 ing of the Department of Health and Human Services and
 22 the Office of Special Education and Rehabilitative Serv-
 23 ices of the Department of Education, shall award a grant
 24 to a nonprofit entity to—

1 (1)(A) provide technical assistance to employers
2 who are transforming from employing people with
3 disabilities using special certificates to providing
4 competitive integrated employment;

5 (B) identify and disseminate private and public
6 sector models of the transition described in subpara-
7 graph (A); and

8 (C) build a set of replicable strategies for em-
9 ployers using special certificates to increase their use
10 of evidence-based practices in providing competitive
11 integrated employment and increase their options for
12 providing competitive integrated employment;

13 (2) collect and disseminate—

14 (A) evidence-based practices with respect
15 to the transformations described in paragraph
16 (1)(A), including practices that increase aware-
17 ness of and access to training materials from
18 and opportunities offered through the Office of
19 Disability Employment Policy; and

20 (B) evidence-based strategies for imple-
21 menting the aims of activities, intended to im-
22 prove the quality of integrated services to result
23 in competitive integrated employment for people
24 with disabilities, carried out—

1 (i) under the Workforce Innovation
2 and Opportunity Act (29 U.S.C. 3101 et
3 seq.);

4 (ii) through settlement agreements
5 made pursuant to the employment require-
6 ments under the Olmstead decision; or

7 (iii) through home and community-
8 based services described in the Home and
9 Community-Based Services (HCBS) final
10 rule published on January 16, 2014 (79
11 Fed. Reg. 2948), or a successor rule;

12 (3) leverage and increase awareness of and ac-
13 cess to training materials and opportunities made
14 available through training and technical assistance
15 investments of—

16 (A) the Office of Disability Employment
17 Policy;

18 (B) the Employment and Training Admin-
19 istration;

20 (C) the Administration for Community
21 Living of the Department of Health and
22 Human Services; and

23 (D) the Office of Special Education and
24 Rehabilitative Services of the Department of
25 Education; and

1 (4)(A) raise awareness of efforts in States to
2 carry out the Employment First initiative; and

3 (B) coordinate dissemination efforts related to
4 ABLE accounts and other financial asset develop-
5 ment resources through the ABLE National Re-
6 source Center and the Department of the Treasury.

7 (b) APPLICATION.—

8 (1) IN GENERAL.—To be eligible to receive a
9 grant under this section, a nonprofit entity shall
10 submit an application to the Secretary at such time,
11 in such manner, and including such information that
12 the Secretary may reasonably require.

13 (2) CONTENTS.—Each application submitted
14 under paragraph (1) shall include—

15 (A) a description of the nonprofit entity's
16 expertise in providing technical assistance that
17 shall include evidence of—

18 (i) knowledge of transforming busi-
19 ness and program models providing em-
20 ployment using special certificates to mod-
21 els providing competitive integrated em-
22 ployment and integrated services;

23 (ii) knowledge of methods for sup-
24 porting employers, including employers not
25 receiving a grant or assistance through a

1 grant under title I, to transform as de-
2 scribed in clause (i);

3 (iii) experience working with non-
4 profit, for-profit, Federal, State, and local
5 agencies focusing on employment of youth
6 and adults who are people with disabilities;
7 and

8 (iv) experience working with people
9 with disabilities and their families;

10 (B) a description of the nonprofit entity's
11 expertise in providing, collecting, compiling,
12 communicating, and disseminating information
13 about program and systems change for pro-
14 grams serving people with disabilities that shall
15 include—

16 (i) expertise documenting program
17 change;

18 (ii) experience compiling recommended
19 practices related to program trans-
20 formations;

21 (iii) expertise regarding competitive
22 integrated employment for youth and
23 adults who are people with disabilities;

1 (iv) expertise working with people
2 with disabilities and their families through
3 systems change procedures;

4 (v) expertise creating accessible prod-
5 ucts to disseminate learned information,
6 including through web-based means;

7 (vi) experience creating accessible
8 websites to disseminate information;

9 (vii) experience working with non-
10 profit, for-profit, Federal, State, and local
11 agencies focusing on employment of youth
12 and adults who are people with disabilities;

13 (viii) experience with assisting youth
14 who are people with disabilities in
15 transitioning from receiving services under
16 the Individuals with Disabilities Education
17 Act (20 U.S.C. 1401 et seq.) and from
18 kindergarten through grade 12 to inclusive
19 postsecondary education and competitive
20 integrated employment; and

21 (ix) experience leveraging resources,
22 available through the Office of Disability
23 Employment Policy and the Employment
24 and Training Administration, that are de-
25 signed to provide effective and efficient

1 services to job seekers who are people with
 2 disabilities in competitive integrated em-
 3 ployment settings; and

4 (C) a description of the individuals at the
 5 nonprofit entity who will be responsible for car-
 6 rying out the activities under this title.

7 (3) DURATION OF AWARD.—A grant under this
 8 section shall be awarded for a period of 6 years, and
 9 shall be non-renewable.

10 (4) NONPROFIT ENTITY DEFINED.—In this sec-
 11 tion, the term “nonprofit entity” means a nonprofit
 12 entity with expertise in collecting, compiling, com-
 13 municating, and disseminating information about
 14 program and systems change for programs serving
 15 people with disabilities.

16 **TITLE IV—REPORTING AND** 17 **EVALUATION**

18 **SEC. 401. IMPACT EVALUATION AND REPORTING.**

19 (a) IN GENERAL.—Not later than 6 months after the
 20 date of enactment of this Act, the Secretary shall enter
 21 into a contract with a nonprofit entity with experience in
 22 conducting evaluations of program and systems change ef-
 23 forts to—

24 (1) conduct a multi-year evaluation on the im-
 25 pact of this Act, including the amendments made by

1 this Act, with respect to people with disabilities (in-
2 cluding such people receiving a wage rate under sec-
3 tion 14(c) of the Fair Labor Standards Act of 1938
4 (29 U.S.C. 214(c)), as amended by title II); and

5 (2) prepare the reports described in subsection
6 (c).

7 (b) EVALUATION.—In carrying out subsection (a)(1),
8 the nonprofit entity awarded a contract under this section
9 shall evaluate—

10 (1) changes in wages and employment for peo-
11 ple described in subsection (a)(1); and

12 (2) actions taken by employers and States to
13 comply with the amendments made by title II and,
14 in the case of an employer or State receiving funds
15 under title I, to comply with the transformation re-
16 quirements under such title.

17 (c) REPORTS.—The Secretary shall submit to the
18 Committee on Health, Education, Labor, and Pensions of
19 the Senate and the Committee on Education and Labor
20 of the House of Representatives, the following reports on
21 the evaluation conducted under subsection (a)(1):

22 (1) An interim report on the evaluation, not
23 later than 3 years after the evaluation commences
24 under subsection (a)(1).

1 (2) A final report on such evaluation, not later
 2 than 18 months after the date on which the legal ef-
 3 fect of special certificates expire pursuant to para-
 4 graph (7) of section 14(c) of the Fair Labor Stand-
 5 ards Act of 1938 (29 U.S.C. 214(c)), as added by
 6 title II.

7 **SEC. 402. WAGE AND HOUR REPORTS.**

8 (a) IN GENERAL.—For each year of the 5-year period
 9 described in section 14(c)(1)(A) of the Fair Labor Stand-
 10 ards Act of 1938 (29 U.S.C. 214(c)(1)(A)), as amended
 11 by title II, the Secretary (acting through the Adminis-
 12 trator of the Wage and Hour Division), in coordination
 13 with the Civil Rights Division of the Department of Jus-
 14 tice, shall submit to the Committee on Health, Education,
 15 Labor, and Pensions of the Senate and the Committee on
 16 Education and Labor of the House of Representatives, an
 17 annual report summarizing practices of employers pro-
 18 viding employment using special certificates, which, with
 19 respect to the preceding year, shall include—

20 (1) the number of employees (of such employ-
 21 ers) who are people with disabilities and who are
 22 compensated at a rate that is less than—

23 (A) the higher of the rate specified in sec-
 24 tion 6(a)(1) of the Fair Labor Standards Act of
 25 1938 (29 U.S.C. 206(a)(1)) or the rate speci-

1 fied in the applicable State or local minimum
2 wage law; or

3 (B) the customary rate paid by the em-
4 ployer for the same or similar work performed
5 by other employees who are not people with dis-
6 abilities, and who are similarly situated in simi-
7 lar occupations by the same employer and who
8 have similar training, experience, and skills;

9 (2) the type of employment setting (such as
10 segregated employment or competitive integrated
11 employment) and the integrated services provided by
12 such employers;

13 (3) the average hourly wage, minimum and
14 maximum hourly wage, and average hours worked
15 per week of employees described in paragraph (1),
16 disaggregated by employer and by State;

17 (4) the aggregate demographic characteristics
18 of employees described in paragraph (1), including
19 the gender, ethnicity, race, and type of disability of
20 such employees; and

21 (5) the number of employees who have
22 transitioned from employment provided under a spe-
23 cial certificate to competitive integrated employment,
24 disaggregated by employer and by State.

1 (b) REPORT ON AUDIT OF EXISTING SPECIAL CER-
 2 TIFICATE HOLDERS.—Not later than 1 year after the date
 3 of enactment of this Act, the Secretary (acting through
 4 the Administrator of the Wage and Hour Division) shall—

5 (1) conduct an audit of not less than 10 percent
 6 of employers providing employment to employees
 7 using special certificates, as of the date of enactment
 8 of this Act, which shall include an audit of—

9 (A) the training and support provided to
 10 such employees to promote their transition to
 11 competitive integrated employment;

12 (B) the actions taken by employers to
 13 identify competitive integrated employment for
 14 such employees; and

15 (C) the wages of such employees, including
 16 whether such wages are at a rate that is less
 17 than—

18 (i) the higher of the rate specified in
 19 section 6(a)(1) of the Fair Labor Stand-
 20 ards Act of 1938 (29 U.S.C. 206(a)(1)) or
 21 the rate specified in the applicable State or
 22 local minimum wage law; or

23 (ii) the customary rate paid by the
 24 employer for the same or similar work per-
 25 formed by other employees who are not

1 people with disabilities, and who are simi-
 2 larly situated in similar occupations by the
 3 same employer and who have similar train-
 4 ing, experience, and skills; and

5 (2) submit a report on such audit to the Com-
 6 mittee on Health, Education, Labor, and Pensions
 7 of the Senate, the Special Committee on Aging of
 8 the Senate, and the Committee on Education and
 9 Labor of the House of Representatives.

10 **TITLE V—GENERAL PROVISIONS**

11 **SEC. 501. DEFINITIONS.**

12 In this Act:

13 (1) **ABLE ACCOUNT.**—The term “ABLE ac-
 14 count” has the meaning given such term in section
 15 529A(e)(6) of the Internal Revenue Code of 1986.

16 (2) **COMPETITIVE INTEGRATED EMPLOY-**
 17 **MENT.**—The term “competitive integrated employ-
 18 ment” has the meaning given the term in section
 19 7(5) of the Rehabilitation Act of 1973 (29 U.S.C.
 20 705(5)).

21 (3) **DISABILITY.**—The term “disability” in-
 22 cludes any intellectual, developmental, mental health,
 23 or other disability.

1 (4) INTEGRATED COMMUNITY PARTICIPATION
 2 AND WRAPAROUND SERVICES; INTEGRATED SERV-
 3 ICES.—

4 (A) IN GENERAL.—Except as provided in
 5 subparagraph (B), the terms “integrated com-
 6 munity participation and wraparound services”
 7 or “integrated services” mean services for peo-
 8 ple with disabilities that are—

9 (i) designed to assist such people in
 10 developing skills and abilities to reside suc-
 11 cessfully in home and community-based
 12 settings;

13 (ii) provided in accordance with a per-
 14 son-centered written plan of care;

15 (iii) created using evidence-based
 16 practices that lead to such people—

17 (I) maintaining competitive inte-
 18 grated employment;

19 (II) achieving independent living;

20 or

21 (III) maximizing socioeconomic
 22 self-sufficiency, optimal independence,
 23 and full participation in the commu-
 24 nity;

1 (iv) provided in a community location
2 that is not specifically intended for people
3 with disabilities;

4 (v) provided in a location that—

5 (I) allows the people receiving the
6 services to interact with people with-
7 out disabilities to the fullest extent
8 possible; and

9 (II) makes it possible for the peo-
10 ple receiving the services to access
11 community resources that are not spe-
12 cifically intended for people with dis-
13 abilities and to have the same oppor-
14 tunity to participate in the community
15 as people who do not have a disability;

16 (vi) provided in multiple locations to
17 allow the individual receiving the services
18 to have options, thereby—

19 (I) optimizing individual initia-
20 tive, autonomy, and independence;
21 and

22 (II) facilitating choice regarding
23 services and supports, and choice re-
24 garding the provider of such services;
25 and

1 (vii) in compliance with the Home and
2 Community-Based Services (HCBS) final
3 rule published on January 16, 2014 (79
4 Fed. Reg. 2948), or a successor rule.

5 (B) EXCLUSIONS.—The terms “integrated
6 community participation and wraparound serv-
7 ices” or “integrated services” shall not include
8 a service provided in any of the following set-
9 tings:

10 (i) A nursing facility.

11 (ii) An institution for people with
12 mental diseases.

13 (iii) An intermediate care facility for
14 people with intellectual disabilities.

15 (iv) A congregate setting in which an
16 individual does not have the ability, at the
17 time preferred by the individual and in ac-
18 cordance with other preferences of the in-
19 dividual, to access services supporting the
20 full inclusion and engagement of the indi-
21 vidual in the greater community.

22 (5) LOCAL BOARD; LOCAL PLAN.—The terms
23 “local board” and “local plan” have the meanings
24 given such terms in section 3 of the Workforce Inno-
25 vation and Opportunity Act (29 U.S.C. 3102).

1 (6) OLMSTEAD DECISION.—The term
2 “Olmstead decision” means the decision of the Su-
3 preme Court of the United States in *Olmstead v.*
4 *L.C.*, 527 U.S. 581 (1999).

5 (7) OLMSTEAD PLAN.—The term “Olmstead
6 plan”, with respect to a State, means the plan of the
7 State for complying with the holding in the
8 Olmstead decision.

9 (8) PEOPLE WITH DISABILITIES.—The term
10 “people with disabilities” includes individuals de-
11 scribed in section 14(c)(1) of the Fair Labor Stand-
12 ards Act of 1938 (29 U.S.C. 214(c)(1)).

13 (9) SECRETARY.—The term “Secretary” means
14 the Secretary of Labor.

15 (10) SPECIAL CERTIFICATE.—The term “spe-
16 cial certificate” means a special certificate issued
17 under section 14(c) of the Fair Labor Standards Act
18 of 1938 (29 U.S.C. 214(c)).

19 (11) STATE.—The term “State” means each of
20 the 50 States, the District of Columbia, the Com-
21 monwealth of Puerto Rico, and the territory of
22 Guam.

23 (12) STATE BOARD.—The term “State board”
24 has the meaning given such term in section 3 of the
25 Workforce Innovation and Opportunity Act.

1 (13) WORKFORCE DEVELOPMENT SYSTEM.—

2 The term “workforce development system” has the
3 meaning given such term in section 3 of the Work-
4 force Innovation and Opportunity Act.

5 **SEC. 502. AUTHORIZATION OF APPROPRIATIONS.**

6 (a) IN GENERAL.—There is authorized to be appro-
7 priated to carry out this Act, \$200,000,000 for each of
8 fiscal years 2022 through 2026.

9 (b) TECHNICAL ASSISTANCE.—From amounts made
10 available under subsection (a) for each fiscal year, 1 per-
11 cent shall be allocated for the activities under title III.

○