



The Our American States podcast—produced by the National Conference of State Legislatures—is where you hear compelling conversations that tell the story of America’s state legislatures, the people in them, and the policies, process and politics that shape them.

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### **COVID-19 and Employment for People With Disabilities | May 17, 2021 | OAS Episode 130**

Ed: Hello and welcome to “Our American States,” a podcast from the National Conference of State Legislatures. This podcast is all about legislatures: the people in them, the policies, process and politics that shape them. I’m your host, Ed Smith.

“For those legislators who really are about how do we help other people, it is so important for us to try to do as best we can to get in the shoes of somebody else who has, kind of, they don’t have the benefits or privilege that you do and go through and kind of be with them. Right? Go out with your colleagues who are from ethnic minorities and spend time with them; go with people who are disabled, these types of things. And it’s only by that experience can we really understand each other in a way that I think will ultimately help us do what we need to do in our job to make this the best America that we can make it to be.”

That was Illinois Senator Dan McConchie, the Senate Minority Leader. He’s one of my guests on the podcast.

As people slowly head back to the workplace as the pandemic begins to fade and more people are vaccinated, there’s concern about whether people with disabilities will face steeper hurdles to employment.

In the recovery following the Great Recession, for example, employment growth for people with disabilities lagged years behind those without disabilities. McConchie, who lost the use of his legs following a traffic accident more than a decade ago, has been a strong advocate for enforcement of the accessibility requirements in the Americans with Disabilities Act. He talks about the pros and cons of the trend toward teleworking for people with disabilities and the role state lawmakers can play in ensuring those with disabilities are treated fairly and included in the economic recovery.

He also reflected on the 30<sup>th</sup> anniversary of the ADA and where states can go from here to make it better.

My second guest is Saige Draeger, a policy expert at NCSL, who discusses the roles of state legislators in this area, a new NCSL report that dives into the topic, and other resources NCSL can provide to lawmakers.

Let's start with Leader McConchie. Welcome to the podcast.

McC: Thanks, Ed. It's good to be on with you today.

*Time Marker (TM): 02:30*

Ed: First, let me thank you for taking time out of what I'm sure is a busy schedule to do the show. To start, let me ask you generally about the effects the pandemic has had on your constituents. It seems like every aspect of life has been affected, and I wonder what some of the biggest challenges are that you and the folks in Illinois have faced as a result of the pandemic.

McC: Well, I think the biggest thing that we've had is the fact that over a year now, the governor has essentially run the state just through emergency orders that he has done unilaterally on his own, that the legislature has not been a coequal branch of government in that process, and I think that that has caused a number of issues.

I think the governor would have had better response and better buy-in on some of his mitigation efforts, especially early on, if the legislature had been at the table, and I think he would have avoided some mistakes that I think he made along the way that average people looked at and said they just didn't understand.

So, for example, I could go to Target and buy furniture, I could go to Walmart and buy clothing, I could go to my grocery store, all of which were open and buy flowers, but he shut down the flower shops, the clothing shops and the furniture shops, which had a disproportionate impact on small businesses. And I think that a lot of people just looked at it and said this doesn't make sense, these shops could still operate with the same level of safety mitigations that the big box stores could, and yet these small businesses were essentially discriminated against.

And I think that that undermined the public confidence in the COVID-19 response here in the state and maybe ultimately led to greater problems, not just economic, but just in people's buy-in and willingness to listen when government was saying that they needed to be careful.

*TM: 04:23*

Ed: As a legislator with a disability, you have a valuable perspective on the short- and long-term impacts of COVID-19 on Americans with disabilities. While I know you can't speak for all people with disabilities, do you think your own disability has made your experience with COVID-19 different than those without disabilities?

McC: Certainly. I have a physical disability in which I have to use a wheelchair to be able to get around. I have no feeling or function in my legs. But I have a family member who has lung and heart issues. They had significant issues as well. And so here I am, I'm going out, I'm representing the people trying to go out and do stuff, and then I would come back to family

gatherings and I would have a family member very concerned about whether or not I had been exposed to something and even though maybe COVID-19 wasn't going to affect me in any particular negative way if I caught it, I might bring it home to them.

There are a lot of people out there who I think either they've had a disability themselves or are with somebody who has and have had to be extra careful. That, I think, has brought people around to being a lot more, shall I say, responsive and understanding with kind of the levels of complications that people with disabilities have and that sometimes those disabilities are not things that are seen.

For example, I mentioned my relative who has lung and heart issues. There are other people that I know who have had mental health issues where being forced to stay at home and not be able to have normal social abilities that normally exist have created a great deal of issues on the mental health front as well.

I have a friend who runs a counseling center, and they are just overwhelmed with the numbers of people, predominantly young people, who just haven't been equipped to be able to respond to really something that's been unprecedented in our lifetimes.

*TM: 06:24*

Ed: Over the last year, we witnessed a dramatic shift toward teleworking. While many people are gradually returning to their workplaces, recent surveys show that many workers want to continue working remotely. What opportunities and challenges do you think a more permanent shift toward teleworking would present for workers with disabilities?

McC: I think that it's going to present some opportunities. Many people who have disabilities have disabilities which I don't want to say prevent but make it difficult for them to maybe go back and forth into work every day or travel on behalf of the business.

I think that having this experience where telework has worked pretty well for lots of companies; we have lots of major companies which are now, because of their experience over the past year are downsizing their real estate footprint and in some cases just having some employees they're telling to just stay remote, it's okay, I think that that will actually create some better, greater opportunities for people with disabilities because I think employers will be more open to accommodations that they are now making for healthy employees that they just simply hadn't attempted or planned in the past.

*TM: 07:45*

Ed: As we all know, COVID-19 was more than a public health crisis. It launched the national economy into a recession. The recovery following the Great Recession was far from equitable for people with disabilities. Employment data shows employment growth for people with disabilities lagged years behind those without disabilities.

Are there some ways you think state policymakers can help ensure this recovery is more inclusive of all Americans?

McC: I think that there are types of incentives that could be utilized. I mean look, virtually every state has some form of tax credits that are used for trying to have job growth. We'll have tax credits that are associated with things like blighted areas or construction jobs or certain types of things where we're trying to boost the employment in a particular segment of the economy, certain geographic areas, or for people of certain socioeconomic backgrounds.

I'd like to see us consider tax credits that are geared toward those types of entities which are hiring people with disabilities who are unable to find other work. They want to work, they don't want to be on the public dole, and let's look at trying to create ways in order to incentivize companies to take perhaps a risk.

I'm sure sometimes you have companies which are inadvertently not providing opportunities for someone with disabilities just simply because they don't have the experience of having tried it, and I think that tax credits would be a great thing to consider in order to help target certain aspects of the disabled community to make sure that there is an opportunity, because at the end of the day, if you're able to have someone with disabilities, get them gainfully employed, they will end up not only costing the state less in the long run, but actually becoming a productive, tax-paying member of society, and that would become a win/win.

*TM: 09:49*

Ed: You've been a strong advocate for effective public accommodations and enforcement of the accessibility requirements in the ADA. Do you have any concerns about the impact COVID-19 may have on ADA enforcement and the ability of people with disabilities to fully participate in the post-pandemic society?

McC: I definitely think that we have issues with enforcements. We had it before. Most states had really not enough people who were out doing the appropriate level of checks and being able to follow up with complaints that are made.

I actually had a situation here in the State of Illinois in which I made a complaint about a venue that was, in my opinion, inappropriately accessible or insufficiently accessible, I should say, and I think it took over a year for the investigators to be able to go in and when they did, they found a whole number of issues, not even just the things that I had raised, but a number of other issues that I had not even had the chance to recognize.

And I think that the COVID-19 pandemic has actually diverted resources away into other work that vitally needs to be done during this time. We have circumstances... here in Illinois, the Attorney General's office is who is tasked with enforcement, and some of these people have either not been able to be out and actually go in and check these facilities because of COVID-19 mitigation protocols or having been reassigned. There is a lot of falling behind unfortunately in this circumstance. I'm sure it's this way in many other states.

One of the things that I have been a strong advocate for in the past is trying to create systems that would allow for let's say a developer or a construction contractor or what-have-you to be able to proactively go to a state panel of people with disabilities, someone who not only has mobility disabilities, but hearing impaired, the blind, some people who use service animals,

what-have-you, and be able to say look, here are the plans on the new facility I'm looking to build or remodeling that we're going to do, and we're interested in your feedback.

So, instead of it just being some lawyers who are experts in the law saying well, this is what you need to do, actually trying to make it functionally work for people.

One of my favorite examples of having dealt with something that was not accessible or not appropriately accessible, I was actually at a national park in Canada some years ago in which I went into the accessible restroom and found that it wasn't possible to actually use the restroom because the door swung the wrong way and wouldn't close behind someone who had a wheelchair like me.

I'm sure that whoever looked at it thought oh, well, the door is wide enough, and we've got enough space. But just because they hadn't had any personal experience with a disability caused them to approve in this case a Canadian governmental entity and had approved a setup that didn't work for someone like me who was disabled.

So, these are the types of things that I think we can do to kind of go above and beyond where ADA is now and make it better and do so on a voluntary basis that actually has people working together instead of just worrying about punitive actions against them.

*TM: 13:21*

Ed: Let me ask you more broadly about the ADA, which recently turned 30 years old. Is it working well enough? I spoke a few months ago to former Senator Tom Harkin and he thought that there should be some improvements. And if there are changes, do you think the best place to make those changes is at the national or the state level?

McC: Well, being someone who runs into some sort of obstacle virtually every day, I definitely think there can be improvements made. I'm not sure that... You know, one of the benefits of being in America and having 50 different distinct states is the ability to have 50 different laboratories in which we get to try different things. And I think the best way of upgrading ADA on a national basis is actually to kind of incentivize states to go out and do their own improvements to ADA, sort of like along the line of what I was just referring to in a voluntary panel that is trying to get people to collaboratively work together.

And in that circumstance, I think that what we can do is over a few years, maybe pull people together for a conference in Washington, D.C. like what was done which helped lead to the original ADA and say: here's what we're trying and exchanging ideas and be able to have those best ideas that are least expensive that are the best in really ensuring accessibility to rise to the top and then get incorporated on a national level for everyone.

*TM: 14:51*

Ed: As you know, our audience includes your colleagues, fellow legislators around the country, along with legislative staff and other state policymakers. As we wrap up, I wonder if there are any final thoughts you'd like to leave them with.

McC: So, I would say that the biggest lesson for me... so, I became disabled almost 14 years ago now. I was in a hit-and-run accident. A car came into my lane, pushed me into oncoming traffic, left me with a spinal-cord injury and no feeling or function in my legs at all.

And one of the things that I think has been probably the best outcome of that terrible tragedy has been the fact that I now understand, in a personal way, things that I never would have understood in 70 or 80 years of life had I never become disabled. It has given me a real opportunity to stand up and help defend those people who need special accommodations.

And what I would say is that we all have blind spots that are limited by our own experience, like in my case prior to my accident, lack of experience, lack of exposure to what happens if you don't have a disability. Other things I would say are to encourage... for example, I have a friend whose wife became temporarily disabled for a few weeks and she had to use a wheelchair and he came to me one day and he said: I finally understand what it is that you go through because I've had to help my wife over the last few weeks.

And I think that for those legislators who really are about "how do we help other people," it is so important for us to try as best we can to get in the shoes of somebody else where they don't have the same benefits or privilege that you do and go through and kind of be with them.

Go out with your colleagues who are from ethnic minorities and spend time with them. Go with people who are disabled, these types of things. And it's only by that experience that we can really understand each other in a way that I think will ultimately help us do what we need to do in our job to make this the best America that we can make it to be.

Ed: Leader McConchie, thanks for taking the time to share your perspective on this issue. Take care.  
I'll be right back after this with Saige Draeger from NCSL.

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Ed: I'm back with Saige Draeger from NCSL. Saige, welcome to the podcast.

Saige: Thanks for having me, Ed.

TM: 18:09

Ed: We just heard from Leader McConchie in Illinois about some of the different ways COVID-19 has affected people with disabilities. Your work at NCSL hones in on the impact the pandemic is having on employment opportunities for people with disabilities.

In fact, you recently helped author a series of NCSL reports looking closely at the issue. What was the motivation behind that effort?

Saige: People with disabilities have historically been underrepresented in the labor market with higher levels of unemployment, lower workforce participation levels. And the Great Recession of 2007 to 2009 caused mass unemployment for the workforce as a whole, but it disproportionately impacted people with disabilities whose unemployment and labor force participation rates actually lagged behind for years after others started making gains.

And we're seeing a similar level of disproportionality with COVID-19. So, one in five workers with a disability actually lost employment beginning in March of last year as compared to one in seven workers without a disability. And this loss came right at the time when people with disabilities reached pre-Great Recession employment levels.

So, this time around, there's a strong sense of urgency to minimize those disparities and this report series really aims to equip state policymakers with options and strategies to that end.

*Time Marker (TM): 19:35*

Ed: So, to follow up on that, what are some of the ways legislators can help ensure this recovery is more equitable for workers with disabilities?

Saige: There are several different strategies. These reports focus on telework policies and how to ensure that existing policies are inclusive for people with disabilities. We also talk about workplace accommodations that can help those who might be at an increased risk of severe illness due to COVID-19 exposure.

And we also talk about upscaling as a strategy to retain workers who are facing new demands in this rapidly changing economy, as well as inclusive apprenticeships which can create pathways and pipelines to employment.

*Time Marker (TM): 20:16*

Ed: So, are there any examples of legislatures that have taken action either before or during the pandemic to address this equity issue?

Saige: Yes. So, state policymakers have been very active in this area. In 2020, New Jersey led the way in state-inclusive apprenticeship efforts. They enacted a suite of bills that aimed at increasing workforce development opportunities for people with disabilities. Policymakers established a taskforce to develop industry-specific recommendations for diversifying apprenticeship programs in the state.

They also created an apprenticeship assistance and support services pilot program, and this seeks to eliminate barriers to apprenticeship programs for certain participants who disproportionately experience them, such as people with disabilities.

This program offers stipends to offset transportation and childcare costs for apprentices and priority is actually given to workers who are underrepresented in apprenticeship programs, again, such as people with disabilities.

Illinois is another great example. They responded during the COVID-19 pandemic by looking for ways to protect workers with high exposure to the virus at their workplace. So, state lawmakers there enacted a bill in June of 2020 that provides workers' compensation presumption to all essential workers. Additionally, this legislation also grants line-of-duty death benefits to certain first responders who die as a result of contracting COVID-19.

So, we've seen a lot of different strategies and the reports outline in more depth the ones that I've described here as well as many others.

*Time Marker (TM): 21:58*

Ed: Well, Saige, thanks for giving this state-level view of what's happening around the country. As we wrap up, is there anything else you'd like to share with our listeners?

Saige: This report series is part of NCSL's ongoing partnership with the U.S. Department of Labor's Office of Disability Employment Policy as part of their State Exchange on Employment and Disability or SEED project. We appreciate their support, and we would highly encourage any listeners who are interested in learning more about this particular policy area to check out their comprehensive list of resources related to employment for people with disabilities.

Ed: Well thanks, Saige. We'll be sure to link to those resources from the podcast page on [ncsl.org](https://www.ncsl.org). Thanks again for taking the time to fill us in on this critical issue. Take care.

## MUSIC

Ed: And that concludes this edition of our podcast. We encourage you to review and rate our episodes on iTunes, Google Play or Spotify. You may also go to Google Play, iTunes or Spotify to have these episodes downloaded directly to your mobile device when a new episode is ready. For the National Conference of State Legislatures, this is Ed Smith. Thanks for listening and being part of "Our American States."