

Disability Rights Nebraska

Protection and Advocacy for People with Disabilities

**Testimony on LB 39
Before the Executive Board
Nebraska Legislature
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Good afternoon Senator Briese and members of the Executive Board. For the record my name is Brad B-R-A-D Meurrens M-E-U-R-R-E-N-S and I am the Public Policy Director at Disability Rights Nebraska. We are the designated Protection and Advocacy organization for people with disabilities in Nebraska. I am here in strong support of LB 39.

People with disabilities in Nebraska comprise around 11% of our state’s population¹ and there are Nebraskans with disabilities in every county². That number is an undercount if we include people with functional needs that may not be considered “disabling”, but still significantly impact their mobility or other activities of daily living. These are our family, friends, neighbors—our community—and the state’s major policymaking body must do its best to adequately and accurately evaluate how its choices will impact Nebraskans with disabilities and their families.

Many Nebraskans with disabilities do face major disparities across a spectrum of measures as the 2019 American Community Survey data indicate: Nebraskans with disabilities aged 21-64 had a 22% poverty rate compared to 8% for those without; they were employed 30 percentage points lower than those without disabilities; they were employed full-time, full-year at lower rates than their peers without disabilities—32.7% to 70.3%, respectively. Transportation options are severely limited for people with disabilities for a variety of reasons: transport vehicles are not accessible (e.g., taxis), public transport routes are not sufficient in number or destinations, disability-specific transport requires reservations weeks in advance and may not travel across counties; housing stock and options are also inadequate as often housing is not accessible, unaffordable, unsafe, or simply unavailable. Some people with disabilities in Nebraska are paid

¹ Erickson, W., Lee, C., von Schrader, S. (2022). *Disability Statistics from the American Community Survey (ACS)*. Ithaca, NY: Cornell University Yang-Tan Institute (YTI). Retrieved from Cornell University Disability Statistics website: www.disabilitystatistics.org

² Paul, S., Rafal, M., & Houtenville, A. (2020). *2019 State Report for Nebraska County-Level Data: Prevalence*. Durham, NH: University of New Hampshire, Institute on Disability. See <https://disabilitycompendium.org/>

sub-minimum wages for their work— Nebraska statutory language permits this. As of September 2022, approximately 685 individuals were earning sub-minimum wage.³

A conversation I had many years ago with a legislative candidate encapsulates our support for this bill: “I am glad you called. We have a person with a disability on our staff, and so does our opponent. But we have never thought about ‘disability policy’”. Even when in plain sight and (I assume) frequent interaction, the impact of policy on Nebraskans with disabilities can be overlooked or ignored. Disability impact statements would provide the legislature a concrete reminder of the effect of policies it passes on this community and of its responsibility (both legally and morally) to best serve this community; especially considering that many Nebraskans with disabilities, through their disability—often no fault of their own—are more directly involved with and tied to public programs, resources, or services.

Additionally, the legislature has access to and authority to command resources, data, and information that is not available to the public (or difficult to obtain, if even known). These impact statements would provide the legislature with more data which often produces better policy. Plus this data would help clarify or corroborate claims by people with disabilities, their families, and advocates.

Unintended consequences need to be minimized and these impact statements can be a mechanism to do that. An example of the power of unintended consequences for Nebraskans with disabilities is the Medicaid Insurance for Workers with Disabilities program (also referred to as the Medicaid Buy-in program). Policymakers may support increasing the employment of Nebraskans with disabilities, but the unintended consequence is, increased income jeopardizes Medicaid eligibility. As the Government Accountability Office reported in 2021, this is a significant concern and disincentive for competitive, integrated employment.⁴ Nebraska implemented a program in 1999 to help alleviate this concern, the Medicaid Insurance for Workers with Disabilities program, allowing employed people with disabilities to earn up to 250% of federal poverty and pay a premium to retain Medicaid.

³ Personal communication with Nebraska Vocational Rehabilitation staff, October 25, 2022.

⁴ “The extent of concern individuals or their family members have about losing public benefits if the individual’s earnings increase can affect individuals’ transition to CIE [Competitive Integrated Employment]. Eight of the 17 interviewees considered this to be among the most important factors.” “Factors Influencing the Transition of Individuals with Disabilities to Competitive Integrated Employment”, March 2021, at page 15. Available at <https://www.gao.gov/assets/gao-21-260.pdf>

An additional unintended consequence made the eligibility process and requirements so restrictive that only 74 people utilized the program in 2019. We were able to get significant reform of the program so that the eligibility tests are more reasonable and reflect the national trend, but it took almost 20 years. We understand that in July 2022 there were approximately 393 people utilizing the program. That is over 300 more people with disabilities working or more able to work or even take a raise. A true and substantive disability impact statement would have been helpful.

Furthermore our agency's reports⁵ on the experience of TestNebraska and the distribution of COVID-19 vaccines highlight unintended consequences of overlooking the policy implications for persons with disabilities:

“TestNebraska was launched May 4, 2020. The program required two steps: (1) the individual was required to register online and (2) the individual was required to drive to a testing site. The program obviously posed significant barriers for people with disabilities. People without any internet access, people without the ability to navigate the registration website, people who didn't have a car, people who had no access to transportation to a testing site, and people who were unable to sit in their vehicle for long periods due to their disability were all simply left out.”
(Second Class report, pg. 2)

“Once vaccines arrived, the state began implementing the written plan to deliver doses to the first tier of recipients. As frontline health care workers and the elderly were vaccinated, the Governor announced he was abandoning the existing plan and announcing an age-driven eligibility instead. While people who are senior citizens were appropriately prioritized due to their higher rates of susceptibility, the state's age-based plan put Nebraskans with disabilities at risk since it was not based on medical criteria. For example, a 20-year-old with Down Syndrome is known to be at much higher risk from COVID-19, but her healthy 50-year-

⁵ “Second Class During the Pandemic”, December 2021, available at https://www.disabilityrightsnebraska.org/file_download/c7395dcc-68d9-4eef-82a9-582be2cb284e and “Widening the Divide” November 2020, available at <https://www.disabilityrightsnebraska.org/what-we-do/covid-19-updates/a-widening-divide.html>

old mother would receive the vaccine months ahead of her.” (“Second Class” report, pg. 5)

We would suggest that people with disabilities, their families, advocates, and other pertinent organizations be involved in developing the selection criteria for legislation as well as be consulted for input assessing the impact. The legislation calls for consultation with “subject matter experts”-- people with disabilities are subject matter experts about living with disability and the effects of public policy on this community.

Disability Rights Nebraska recommends advancing LB 39.