

**MEMORANDUM OF SUPPORT**  
S.1164A (Sanders) / A.6541 (Kelles)

The New York Association on Independent Living (NYAIL) is a statewide, not-for-profit membership association, created by and composed of Independent Living Centers across New York State. Independent Living Centers are unique disability-led, cross-disability, locally administered, not-for-profit organizations, providing advocacy and support to people with disabilities of all ages to live independently and fully integrated into their communities.

NYAIL strongly supports S.1164A / A.6541. The bill will restore the original protections that employees with disabilities had under the ADA, which barred states from practicing discrimination against employees with disabilities. The United States Supreme Court decided in *Board of Trustees of the University of Alabama v. Garrett*, 531 U.S. 356 (2001) that suits in federal court by state employees to recover damages under Title I of the ADA were barred by the Eleventh Amendment, providing only for injunctive relief. We believe that the Supreme Court's decision was a grievous misinterpretation of the ADA that denies essential rights to a segment of the population with disabilities. The Supreme Court has similarly barred individuals from suing the State under the Fair Labor Standards Act (FLSA) of 1938, the Age Discrimination in Employment Act (ADEA) of 1967, and the Family and Medical Leave Act (FMLA). S.1164A / A.6541 ends a pattern of injustice that directly impacts New York State by waiving immunity.

Businesses, schools, counties, towns, and villages cannot violate the employment provisions of the ADA without the consequences of being found accountable in a court of law, but this does not apply to New York State. State governments should be held to the same standard of conduct as any other workplace is when it comes to the right to be employed without fear of discrimination.

New York was one of the 13 states that signed on to Minnesota's *Amicus Curiae* back in 2001 in support of the plaintiffs in *Board of Trustees of the University of Alabama v. Garrett*. The amicus brief committed to the idea that State governments should be held to the same compliance standards as other employers regarding the ADA.

the Americans with Disabilities Act of 1990 (ADA), the Fair Labor Standards Act (FLSA) of 1938, the Age Discrimination in Employment Act (ADEA) of 1967, and the Family and Medical Leave Act (FMLA). Demonstrating a strong commitment to equal opportunities and equal protection for State employees with disabilities by waiving the State's sovereign immunity.

Thus far, three other states (Minnesota and North Carolina, 2001, and Illinois, 2004) have passed similar legislation. These states have reported no increase in costs to, or litigation against the state because of such laws.

NYAIL urges prompt passage of S.1164A / A.6541.