



February 8, 2021

To: Members of the Senate Human Services Reform and Finance Committee  
RE: SF 2876, DE 4 – Changes to Task Force on Eliminating Subminimum Wage

Dear Chair Abeler and Committee Members,

We write regarding the proposed changes to the Task Force on Eliminating Subminimum Wage in SF 2876, DE 4. The Minnesota Disability Law Center (MDLC) and the Legal Services Advocacy Project (LSAP) are statewide projects of Mid-Minnesota Legal Aid. MDLC serves as the Protection and Advocacy (P&A) organization for Minnesota, one of 49 other state P&A's federally designed under a Congressional act. MDLC provides free legal services to children and adults with disabilities in Minnesota. LSAP is the advocacy arm of Legal Aid and has provided legislative and administrative advocacy on behalf of Legal Aid's clients and all low-income Minnesotans since 1977.

We are so grateful for the ongoing discussions regarding possible changes to this task force and the time that several members of this committee have dedicated to this work and discussions. We continue to have concerns about the proposed language and continue to prefer the language as enacted.

This task force as enacted is a very good policy approach for our state. The ability for some employers to pay people who have disabilities less than minimum wage was incorporated into the federal Fair Labor Standards Act in 1938. It is now time to move away from this model – as many states have done<sup>1</sup> – and to fully recognize and compensate the labor of people who have disabilities.<sup>2</sup> The task force is a thoughtful approach to phasing out a practice that remains

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<sup>1</sup> Alaska, Maine, Maryland, New Hampshire, Rhode Island, Vermont have ended the use of subminimum wages and other states, including Colorado, Delaware, Hawaii, Oregon, and Washington, have set an end date for ending subminimum wage.

<sup>2</sup> See Subminimum Wages: Impacts on the Civil Rights of People with Disabilities, U.S. Commission on Civil Rights (September 2020), available at <https://www.usccr.gov/files/2020-09-17-Subminimum-Wages-Report.pdf> (recommending the end of the use of subminimum wage and noting that “[t]he Commission’s research shows that Section 14(c) is antiquated as it was enacted prior to our nation’s civil rights laws, and its operation in practice remains discriminatory by permitting payment of subminimum wages based on disability without sufficient controls to ensure that the program operates as designed “to the extent necessary to prevent curtailment of opportunities for employment”); see also National Council on Disabilities, National Disability Policy: A Progress Report, at 54 (2017), available at [https://ncd.gov/sites/default/files/NCD\\_A%20Progress%20Report\\_508.pdf](https://ncd.gov/sites/default/files/NCD_A%20Progress%20Report_508.pdf) (recommending a “transformation strategy to phase out the 14(c) model in favor of one of empowerment and self determination,” and noting “NCD believes that no person with a disability should be discriminated against in an employment setting by receiving less than the minimum wage available to all other citizens”).

embedded in some of the options for people who have disabilities throughout our state. Rather than simply eliminating the use of subminimum wage, the task force is charged with creating a plan to phase it out. One of the goals of such planning is to ensure that all people in Minnesota who currently receive less than minimum wage can continue to spend their time in the ways that have meaning for them, along with being paid minimum wage for their work.

Our state has been working towards promoting independence and increasing opportunities for people who have disabilities to earn competitive wages for a long time. It has expressly been a goal of our state since 2014 when we adopted the Employment First Policy.<sup>3</sup> The task force as enacted would move this work forward to prepare a plan to fully pay people who have disabilities fairly for their labor. We do not see how changing the purpose as proposed would differ significantly from the efforts we have already been undertaking as a state.

This task force begins its work today, February 8, 2022. We urge you to permit the task force to continue its work as originally enacted, which will allow for deliberative planning for people with disabilities, their families and support networks, providers, and state agencies to ensure that people who have disabilities will both be compensated equitably and fairly and will have access to employment and other opportunities that they choose.

Thank you for your leadership and your commitment to people who have disabilities in Minnesota and for your consideration of our views.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Hulden', with a horizontal line extending to the right.

Maren Hulden  
Staff Attorney  
Legal Services Advocacy Project

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<sup>3</sup> See <https://mn.gov/dhs/partners-and-providers/news-initiatives-reports-workgroups/long-term-services-and-supports/employment-first/>