



March 22, 2022

To: Minnesota Senate State Government Finance and Policy and Elections Committee
Re: SF 3408

Chair Kiffmeyer and Committee Members,

On behalf of those most affected by elimination or any changes to the FLSA Section 14(c) Subminimum wage and A-Team Minnesota, I am writing in support of SF3408.

A-Team Minnesota is a network of self-advocates and families united in advocating for a full array of services for people with disabilities. A-Team MN is one of 20 states in a national network of self-advocates and families – A-Team Grassroots USA.

When the Task Force to plan for the elimination of subminimum wage was passed in the 2021 June special session it was done without the benefit of public debate and without input from those most affected by any changes to 14(c).

The law that passed created a task force to plan for the elimination of 14(c) subminimum wage. The purpose is clearly stated in the law.

The law that passed excluded representation of those most affected and of their families. When DHS sought membership to the task force late last year it required that applicants must attest to a commitment to eliminate 14(c) subminimum wage.

SF3408 does what was not done at the time the legislature adopted the 2021 task force legislation. It modifies the purpose of the task force “to plan and make recommendations to promote independence and increase opportunities for people with disabilities to earn competitive wages”. It does not eliminate any existing work option.

SF3408 modifies the task force membership to be inclusive – not exclusive. It adds membership that includes those most affected. It adds a person currently employed in a 14 (c) work option as well as a family member of someone currently employed in a 14 (c) work option.

A-Team MN network of Minnesota self-advocates and families want to clearly state that those advocates opposing inclusion of those most affected and to having a positive purpose for the task force do not speak for those most affected. They do not honor the choice of those most affected.

While those opposed to SF3408 advocate for person-centered plans and informed choice they seem to only support the type of choices they prefer to exist.

Thank you for considering the testimony from A-Team MN self-advocates and families.

Sue Hankner,
President, A-Team MN Mother of 2 disabled sons Buyck, MN 218-780-3453 shankner@yahoo.com

- The following is an explanation of FLSA14(c) and demonstrates a conflict in state policy regarding services for people with disabilities.

**Federal Law - Fair Labor Standards Act
Section 14(c) Subminimum Wage**

What is 14(c) Subminimum Wage?

The United States Fair Labor Standards Act was adopted by congress in 1938 after the depression to stabilize the post-depression economy and to protect American workers. It established minimum wage.

- FLSA Section 14(c) subminimum wage ensures people with disabilities are paid based on their individual productivity. It is a reasonable accommodation that allows people with disabilities to earn a wage when they cannot work at the same pace as someone without a disability.
- Section 14(c) does not apply unless the disability impairs the worker's earning or productive capacity for the work being performed. The fact that a worker may have a disability is not in and of itself sufficient to warrant the payment of a subminimum wage.
- The U.S. Department of Labor has authority to approve 14(c) certificates and for ongoing oversight of employers who provide supported job training and jobs for people with disabilities. These may be center based in a community.
- Using the prevailing wage for similar work in their community, the provider calculates a special or commensurate wage for each job performed by each person. Often this wage is more than the state's minimum wage and changes as someone's productivity changes.
- There is no evidence-based research in support of the elimination of FLSA 14(c). There has been no examination of its efficacy. There is no analysis of the effects of elimination in states that chose to eliminate.
- 14(c) work is an available work option from which the individual with a disability may choose.
- No one is forced into 14(c) work. It is a choice.

Eliminating 14(c) work option conflicts with other Minnesota Laws.

❖ **The conflict is between the right to a person-centered plan and informed choice with taking away an existing choice where the individual feels safe, enjoys the work, enjoys the social atmosphere with their friends and receives proper support.**

● **Current Minnesota law**

- Person-Centered Plan – each person with a disability develops their annual unique plan that outlines what is important to them in their everyday life, their hopes, dreams, ambitions, needs and wants. It is a self-definition of their quality of life.
- Informed Choice – each person with a disability must be given comprehensive information to help them to make choices about their work, home, and life enrichments.
- Families and legal guardians have a role in person-centered planning and in informed choice.

● **Employment Decision**

- Each person can choose a work option based on their informed choice.
- Elimination of any existing work option infringes on the civil right of a disabled person to choose their preferred work option.