THE STATE of ALASKA
GOVERNOR MICHAEL J. DUNLEAVY

Department of Health and Social Services

GOVERNOR'S COUNCIL ON DISABILITIES & SPECIAL EDUCATION

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February 23rd, 2022

Senator Peter Micciche
State Capitol Room 111
Juneau, AK 99801
Via Email: senator.peter.micciche@alaska.gov

RE: SB 185 – An Act Relating to Exemptions from Minimum Wage

Senator Micciche,

The Governor's Council on Disabilities and Special Education (the Council) fills a variety of federal and state roles, including serving as the State Council on Developmental Disabilities (SCDD) under the Developmental Disabilities Assistance and Bill of Rights Act. As the state DD Council, the Council works with Senior and Disabilities Services and other state agencies to ensure that people with intellectual and developmental disabilities (I/DD) and their families receive the services and supports that they need, as well as participate in the planning and design of those services. Our council membership is composed of self-advocates and family members of individuals with intellectual and development disabilities (60%), as well as agency and partner representatives (40%). One of the duties of the state DD Council is providing comments on proposed recommendations that may have an impact on individuals with intellectual and/or developmental disabilities and their families.

Since the federal minimum wage was established in 1938, a special reduced compensation rate was allowed for those with disabilities known as the subminimum wage. This provision allows employers, holding a 14(c) certificate from the United Stated Department of Labor to pay those with disabilities less than the federal or state minimum wage in place that was generally mandated for all other workers utilizing productivity rates as the sole factor in evaluating the performance of those with disabilities. This use of productivity standards to determine compensation only for those with disabilities is discriminatory and creates a class of worker who is deemed lesser solely on having a disability and therefore paid less depending on how they measure up to a standard their non-disabled coworkers are not evaluated on or held to.

Can you imagine this being an acceptable standard to evaluate an individual because of their race? What if someone was required to meet a productivity quota in order to be paid the minimum wage only if they had a certain color skin? Or what if a woman could be paid less solely because she was pregnant or nursing? What if all individuals over the age of 65 had to prove they deserved to earn minimum wage at their job, but younger individuals did not? All of these scenarios are just as discriminatory and just as archaic as this provision in Alaska law to

hold to the notion that an individual with a disability does not have the same standing in the job market, regardless of the quality of their work or their talents, gifts, abilities, and skills.

While sub-minimum wage may have at one time been an effective strategy to increase participation in the workforce for individuals with disabilities, as a society we have made significant advancements in recognizing and protecting the rights of those with disabilities and this provision is no longer necessary nor conscionable. With the proper planning, the right job match, the right supports or accommodations, and the right protections even individuals with the most significant disabilities can and do work successfully in the community.

The existence and use of sub-minimum wage reflects the conclusion that people with disabilities are incapable of being fully integrated into the general labor force, a position which is at odds with the federal, state, and local policies that have developed over decades. In particular, at the federal level, we see the new understanding through the Americans with Disabilities Act, the Individuals with Disability Education Act, and the Workforce Innovation and Opportunity Act to name a few. In Alaska, the Employment First Act requires vocational services be provided to help people with disabilities become gainfully employed at or above the minimum wage.

In 2018, the regulations enacting subminimum wages for those with disabilities was repealed by the State Department of Labor and Workforce Development.

We strongly support the repeal of the statutory provision which would allow such a regulation to be reintroduced in the future. It is not acceptable for public policies to remain in effect which conflict with the basic premise that all those with disabilities are valuable members of society and have the same rights as everyone else to fully participate in all aspects of life, including gainful employment and the pursuit of economic self-sufficiency. We urge the legislature to move forward with repealing this provision and ensuring the laws of Alaska reflect our values.

Sincerely,

Myranda Walso

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Executive Director, GCDSE

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Council members wish to formally submit the following statements which speak to their views on the issue of sub-minimum wage pay for individuals with disabilities and the importance of this bill.

- Heidi Lieb-Williams, Council Chair, said, "We all have gifts and talents to offer, and our work is just as valuable as what others bring to the table. And we should be paid fairly for our time and knowledge. It is demeaning that someone could just look at a person and judge them on the basis of their disability and offer them less than they are worth. As Alaskans we are better than that, and this repeal will help us all acknowledge that."

- Corey Gilmore, Chair of the Committee on Community Inclusion, Supports, & Services said, "In 2018 we advocated for the DD Shared Vision, which put Alaskans who receive services in charge of their care. And this bill is the next step in realizing the Vision for all of Alaska. Not only does the Vision give us the right to direct our care, but the repeal of the subminimum wage further solidifies that we are competent Alaskans with something to offer our state."

- Jena Crafton, Council Vice Chair said, “It is their right to get paid for what they do. I think that paying people less than minimum wage is unfair. Good paying jobs, and jobs that people with disabilities want and dream about it is important for them to have that.”

- Ric Nelson, Chair of the Self-Advocacy and Leadership Committee said, “This bill is so important because all people no matter their disability should get paid at least minimum wage to do the same job as their able-bodied peers. Having a law that singles someone out as not deserving the same pay solely because of their disability is dehumanizing. As a person with a disability who has worked hard to have a successful career and earned a master’s degree, I find that this statute reinforces the misconception that individuals with disabilities are somehow a liability for an employer. Keeping this statute sends the message that Alaska is a land of opportunity only if you are not disabled.”

- Dean Paul, Chair of the Employment Committee said, “It is inhumane to discriminate against people with disabilities. Equal pay for equal work is important. As the Chair of the Employment Committee for the Council on Disabilities and Special Education, I strongly support this bill and remind legislators that our laws are a reflection of our values.”

These remarks are respectfully submitted on behalf of the Council and the individual members above through the GCDSE Executive Director. Thank you.

Sincerely,

Myranda Walso

Myranda Walso
Executive Director, GCDSE