



LAURA KELLY, Governor • KATHY KECK, Chairperson • SARA HART WEIR, Executive Director

“To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities”

Kansas House Committee on Commerce, Labor and Economic Development

February 9, 2023

Mr. Chairman and Members of the Committee:

I am Sara Hart Weir, Executive Director of the Kansas Council on Developmental Disabilities (KCDD). The Council’s mission is to empower individuals with intellectual and developmental disabilities (I/DD) and their families to lead systems change, build capacity, and advocate for inclusive, integrated, accessible communities where everyone belongs and thrives.

We rise today in strong opposition to HB 2275 in its current form as it would reverse the tax credit to reward sheltered workshops in the state of Kansas who pay people with disabilities subminimum wage. We have decades of evidenced-based results that demonstrate people with disabilities who have access to inclusive education, quality training, workplace accommodations and customized supports can be gainfully employed - in just about any industry in the U.S.

Moreover, there are a myriad of federal and state best practices, strategies to engage the private sector and additional incentives that should be proposed to solve the unemployment crisis people with disabilities face in Kansas and around the country.

From the New Deal of 1938, here’s the real deal in 2023. The practice of paying people with disabilities subminimum wage in segregated sheltered workshops was established under Section 14(c) of the Fair Labor Standards Act, an 85-year-old policy relic from President Franklin Roosevelt’s Administration.

A 2020 U.S. Commission on Civil Rights report found that between 2017 and 2018, the average wage of a person with a disability working under such certificates was only \$3.34 per hour—less than half of the federal minimum wage. That means they are earning about \$214 a month—20 percent of the federal poverty threshold for one person.

In just the last few years, many abominable cases of mistreatment have been reported in sheltered workshops around the country:

- A Chenango County nonprofit (located in New York State) where individuals are paid as little as 33 cents an hour to package pharmaceuticals while the CEO's annual compensation exceeds \$400,000.
- Rock River Valley Self Help Enterprises (located in Sterling, Illinois) was investigated by the U.S. Department of Labor in 2018. It was discovered that the organization was paying its 250 employees in gift cards rather than wages.
- An interview from Benji K., a 50-year old Virginia man who happens to have Down syndrome, has been working in the same sheltered workshop “five days a week, as he’s done for 28 years (Note: Virginia has legislation currently being considered to phase out 14c in the state).

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The bill under consideration is introduced at a time when our nation is quickly shifting away from subminimum wage and segregated labor models for people with disabilities.

Doubling down on an employment law from 1938, that was part of the New Deal is not the solution.

According to the U.S. Department of Labor, there are approximately 100,000 Americans with disabilities who are still earning subminimum wage across 1,220 sheltered workshops. In Kansas, there are approximately 1500 Kansans still earning subminimum wage across our 26 sheltered workshops.

While providers all across the country are voluntarily transitioning their business and compensation delivery models away from 14c, 14 states have taken legislative and regulatory action to make this discriminatory practice illegal. The following states have passed legislation to eliminate subminimum wages for people with disabilities: Alaska, Maine, Maryland, New Hampshire, Oregon, Washington, Hawaii, Colorado, California, Delaware, Tennessee, South Carolina and Rhode Island.

President Biden is on record of supporting the phase out of subminimum wage. Moreover, as we offer this testimony today, efforts are underway by Senator Bob Casey Jr. (D-PA), Senator Steve Daines (R-MT), Chairwoman of the US House Energy and Commerce Committee/Congresswoman Cathy McMorris Rodgers (R-WA) and Ranking Member/Congressman Bobby Scot (R-VA) to reintroduce the federal, bipartisan *Transformation to Competitive Integrated Employment Act (TCIEA)*.

From the National Council on Disability (NCD)¹, the US Commission on Civil Rights² to hundreds of national, state and regional disability organizations all support the phase out of 14c and the goals of the *Transformation to Competitive Integrated Employment Act (TCIEA)*.

This federal bill is a national, commonsense and bipartisan public policy solution that not only phases out this practice over five years by prohibiting the U.S. Secretary of Labor from issuing the certificates that allow employers to pay employees below the minimum wage. The bill also provides \$200 million in grants to states or employers, supporting employers transitioning to a business model that pays at least minimum wage to workers with disabilities and continues to provide services to workers with disabilities, particularly to those who need more support in the workplace.

On the surface, this proposed legislation seems like it would move the needle on the unemployment crisis in Kansas facing people with disabilities, however, it would perpetuate an archaic system designed to keep individuals with disabilities in a vicious cycle of poverty working in segregated work environments.

¹ National Council on Disability, National Disability Employment Policy, *From the New Deal to the Real Deal: Joining the Industries of the Future*, <https://ncd.gov/publications/2018/new-deal-real-deal>, 2018.

² U.S. Commission on Civil Rights, *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities*, <https://www.usccr.gov/files/2020/2020-09-17-Subminimum-Wages-Report.pdf>, 2020.



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In closing, I want to leave you with this to consider:

- Employment isn't charity, it's not a social experiment.
- Moving away from the practice of 14c eliminates unnecessary bureaucracy - from overseeing “time trials” every six months on individuals with disabilities, to government paperwork, audits, etc. there is no doubt a cost to comply with the federal regulations for an organization.
- The American Dream should be afforded to everyone. Someone who is making subminimum wage, cannot truly achieve independence, especially financially. For individuals who can and want to work, we should create systems that incentivize work rather than a system that only creates a greater cost on government programs.

I strongly believe that we, as the disability community in Kansas, can work together with our lawmakers and the business community to craft common sense workforce development solutions to address the untapped talent pool of Kansans with disabilities. This proposal is not one of those solutions.

Thank you, Mr. Chairman and members of the committee. I would stand for questions.

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