

**Testimony Before the Wage Board of the New York State Department of Labor
on Tipped Workers and the Minimum Wage**

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The fairest way to address tipped workers wages is to join California and six other states in eliminating the tip credit that reduces the minimum wage.

Tipped restaurant workers suffer from three times the poverty rate of the general population.

The poverty rate among tipped workers is one-third lower in the seven states that eliminated the tip credit than in those that didn't make the change. Among workers of color, the poverty rate is cut in half in states that eliminated the tip credit.

Today's too-low minimum wage is part of the feminization of poverty. Two-thirds of minimum wage workers are women. Many are single moms.

The tipped minimum wage puts women in the compromising position of having to please clients and employers even if they are mistreated since their livelihood depends on their tips. That is one of the reasons that the New York State chapter of the National Organization for Women has called for its elimination.

Congress approved the first minimum cash payment for tipped employees in 1966, setting it at half the minimum wage. The federal tip minimum varied from 40% to 50% of the minimum wage until 1996, when Congress froze it at half of the then current minimum wage of \$4.25. The tip minimum has remained at \$2.13 ever since, even though the federal minimum wage has been raised to \$7.25.

In other words, the federal protections for tipped workers have been reduced. It is time for New York State to provide a decent minimum wage for tipped workers by eliminating the tip credit and guaranteeing tipped workers the same minimum wage rate as other workers.

As a Wage Board, you have the legal responsibility and power to raise the minimum wage to a level adequate to maintain workers and their families at a decent standard of living. I suggest to you that today that minimum is \$15 an hour today.

\$15 an hour today is less than the \$2 an hour demanded by the 1963 March on Washington for Jobs and Freedom led by A. Philip Randolph, Martin Luther King, and others. \$2 adjusted for inflation is \$15.55 today.

Our economic output is 2.7 times greater per capita today than it was in 1963. Yet our low-wage workers are not getting their fair share of that growth in productivity.

Seattle has adopted \$15 minimum wage and Los Angeles has adopted a \$15.75 minimum wage for hospitality workers. New York State should match these initiatives. Our economy is certainly productive enough to afford to pay every worker at least \$15 an hour.

I would add that a minimum wage that is a living wage will reduce public expenditures on need-based benefits such as food stamps and Medicaid that most of today's minimum wage workers are qualified to receive and need to make ends meet.

The \$9 an hour that current law will raise the minimum wage to by 2016 is still a poverty wage. Your legal job is to do what is right for low-income workers, not for the business contributors to the politicians who adopted that sub-poverty standard.

You also have the statutory authority to take action to protect the minimum wage. I urge you not to weaken any such provisions that were in the last wage order, including that tipped workers qualify both for the full minimum wage if they do more than 20% of their time in a non-tip position and for overtime.

Although federal law requires employers to bring tipped workers wages up to the minimum wage if tips do not achieve that, many employers do not and many employees are afraid to ask to be made whole for fear of losing their job. That is just one form of wage theft by employers that is rampant in the low-wage sectors of the economy.

I also urge you to take action to crack down on the epidemic of wage theft, which is estimated to cost low-income workers in New York City alone a billion dollars annually. Studies show that one-third of low-wage workers experience wage theft in the U.S. in any week. The Labor Department staff has a two-year backlog of 15,000 wage-theft cases pending. And even when workers win a case, they often never collect the back pay they won from employers who continue to flout the law.

The working poor ought to be able to work and not live in poverty. You have the power to make an enormous difference in the lives of the 200,000 workers at or below the minimum wage in New York State. Please use that power.