



**2014 WAGE BOARD
NEW YORK STATE
DEPARTMENT OF LABOR**

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Good afternoon Members Grippen, Briccetti and Ward. My name is Michael Kink, and I serve as the Executive Director of the Strong Economy for All Coalition. Thank you for the opportunity to present testimony before the Wage Board today.

Strong for All is a labor-community coalition working on issues of economic fairness, jobs, income inequality and effective government policies to promote broad prosperity.

We are made up of some of New York's most engaged and effective unions and community organizations, including SEIU Locals 1199 and 32BJ; the United Federation of Teachers, New York State United Teachers and the Professional Staff Congress of CUNY, NYSUT; the Retail, Wholesale and Department Store Union and the Communication Workers of America; the New York City Central Labor Council, the Municipal Labor Committee and the state AFL-CIO; and community groups including the Coalition for the Homeless, Citizen Action of New York, Make the Road New York, New York Communities for Change and the Alliance for Quality Education.

We helped lead the statewide campaign that brought together community, labor, student, faith and Occupy groups to win progressive tax reform and a new "Millionaires Tax" for New York; the 2012 campaign that won bipartisan backing from New York members of Congress for President Obama's revenue-raising solution to the "fiscal cliff"; the 2013 campaign to raise the statewide minimum wage (without an increase for tipped workers, regrettably) and this year's "#NYInequality" campaign on tax fairness and "Raise Up NY" campaign for another increase in the minimum wage and for local minimum-wage authority.



Strong for All was established to fight for policies and programs that will address New York's worst-in-the-nation income inequality, and we'd like to say clearly and directly that boosting the paychecks of a quarter-million tipped workers throughout New York by eliminating the sub-minimum tipped wage will fight poverty and reduce inequality.

Creating one fair minimum wage for all workers in all categories is good labor policy, good economic policy and good jobs policy.

New York should join the fast-growing and prosperous states that don't have a sub-minimum wage and demonstrate national leadership in the fight to grow the economy from the bottom up.

A "One Fair Wage" policy – eliminating the sub-minimum wage and just making tips a gratuity for good service – is simple, easier to enforce, and a better deal for workers – and for the local economy.

It's a proven model that has been demonstrated to be effective at reducing poverty among tipped workers, without slowing job growth or reducing employment in the restaurant industry.

It will directly help women – who make up over 70 percent of the tipped labor force – and their families, reducing the gender gap in pay and fighting child poverty.

It will reduce wage theft and simplify enforcement of wage and hour standards.

And it will provide a real economic boost to our local economies, putting money directly into the paychecks of those most likely to spend it locally, providing a strong multiplier effect for local businesses throughout the state.



Our testimony includes some key points already provided to the wage board by our partners and allies, including the staff of the National Employment Law Project, which has provided invaluable technical and legal assistance to the One Fair Wage campaign.

But I'd like to address two important top-line issues: the economic impact of higher pay for low-wage workers, and the impact of wage-law simplification on wage theft.

First, on the economy.

Right now, New York has the worst income inequality in the nation: there's nowhere else in America with a bigger divide between the rich and the poor than here.

It's a big problem for our economy – in New York, like in the rest of the nation, economists tell us that **the single biggest drag on economic recovery has been lack of wage growth.**

Not taxes. Not regulations. Lack of wage growth.

President Obama has repeatedly remarked that the states with the highest minimum wages have had the biggest growth in jobs, and in Seattle and Washington State, we're seeing the nation's highest minimum wages and the nation's fastest small-business growth.

The idea that if the rich get richer it's good for the economy but if the poor get richer it's bad for the economy is just plain wrong.

We need bigger paychecks for more workers in order to unlock the consumer demand that can actually help our economy grow faster, from the bottom up.

And getting rid of the sub-minimum wage is an important way to boost paychecks and increase consumer demand.



Here's a fact: **many “One Fair Wage” states are growing faster than New York.**

California, Nevada, Oregon, Washington and Montana all have rejected the sub-minimum wage for tipped workers and they're all growing faster than New York, [according to Deloitte Consulting](#). Restaurants, hotels and small businesses in these states aren't hurting – they're thriving.

Governor Cuomo and many of our groups have supported a strong and meaningful increase in the overall minimum wage -- \$10.10 per hour, with indexing and a 30% local upward adjustment for cities and counties that choose to move it higher to meet local living conditions.

Many of our groups support the “Fight for 15” effort to win \$15 an hour and unionization for fast-food workers, car-wash workers, airport-service workers and other sectors where jobs pay less than a living wage.

All of these efforts will take more time, more organizing, more advocacy and more political support to move forward – and that means our economy won't grow as much as it should in the mean time.

But for a quarter-million tipped workers across New York – and for 17.5 million New Yorkers who want, need and deserve a stronger economy – there's a chance for action right now.

Eliminating the sub-minimum wage would provide an important economic boost across our state, moving money into the paychecks of those most likely to spend it immediately and providing a good sharp stimulus to the New York economy.



Simplification of the wage laws through elimination of the sub-minimum wage would also reduce wage theft, which a recent report from the US Department of Labor has reemphasized as a really significant problem in New York.

[“The Social and Economic Impact of Wage Violations”](#) released last week by the United States Department of Labor included a robust model for estimating wage law violations in New York – it’s an estimate based on modeling, not an actual set of findings, but it’s important as an indicator on the consequences of our current legal and regulatory framework.

The model laid out in the report includes the following estimates:

- New York workers suffer 339,000 minimum wage law violations every month
- New York workers suffer \$20.1M in lost income from wage theft every week – that’s **a billion dollars a year in lost income from wage theft**
- New York workers hit by wage theft lose about half of their weekly earned income from each violation
- Restaurants, hospitality & leisure workers suffer the worst wage theft
- Wage law violations alone drive over 33,000 New York families below the poverty line every year.



These estimates include estimates of wages taken from tipped workers, but don't include tipped credit violations – actual wage theft for tipped workers is likely to be even higher.

A simpler, stronger law on tips would be easier to enforce and less likely to be violated.

And a billion dollars a year in wage theft is real money, taken from real workers and real families.

The pay boost from a higher minimum wage, combined with the take-home pay boost from reduced wage theft would make an immediate and significant impact on household incomes, on poverty rates and on basic survival for a quarter-million tipped workers – and the multipliers effects will help millions more New Yorkers by boosting local economies statewide.

We join our allies in the One Fair Wage campaign and our partners at the National Employment Law Project in urging the Wage Board to eliminate the sub-minimum wage for tipped workers and guarantee that New York's tipped workers receive the full minimum wage directly from their employer for the following important reasons:

A Proven Model: [Seven states](#) currently require employers to pay tipped workers the full minimum wage directly, with tips being in addition to – instead of a substitute for – their wages. As a result, tipped workers are already being paid \$9.00 or more in California, Washington and Oregon, and will soon be getting raises to over \$9.00 in Minnesota, Hawaii and Alaska. This model policy has



proven effective in reducing poverty among tipped workers, *without* slowing job growth or reducing employment in the restaurant industry.

In fact, according to [projections by the National Restaurant Association](#) in their 2014 Industry Forecast, **all of the states that require employers to directly pay the full minimum wage to tipped workers are expected to have greater restaurant job growth than New York in the next decade – in most cases, much greater.**

These projections highlight how job growth is driven not by how high or low the state's tipped minimum wage is, but by a range of other macroeconomic factors.

And real world experiences, as well as [studies of states and cities](#) that have raised the minimum wage for tipped workers, consistently confirm that employers can adjust paying a higher base wage without reducing employment or slowing job growth.

A More Substantial and Reliable Base Wage: New York's tipped sub-minimum wage requires employers to rely heavily on tips alone, as they lack a strong base income paid directly by their employers. This means they are vulnerable to sudden drops in pay as tips are notoriously erratic, varying from shift to shift, season to season, customer to customer, and even from day to day in a given week.

Guaranteeing tipped workers the full minimum wage paid directly by their employer cushions the economic shock of unpredictable fluctuations in pay that can prevent tipped workers from providing for themselves and their families.



Fair Pay for Working Women: Women are hurt most by New York's tipped sub-minimum wage, as [women make up more than 70 percent of all tipped workers](#).

Eliminating the sub-minimum wage will help address the persistent gender pay gap in New York, where women are paid just 83 cents for every dollar that men are paid.

Toward a Living Wage and a More Robust Economic Recovery: A more substantial base wage paid directly by employers will help transition tipped jobs into those that pay closer to a living wage – a critically important priority for tipped workers, who are [more than twice as likely to live in poverty](#) as other workers.

While some tipped workers do earn enough in tips to bring their hourly earnings well above the minimum wage, U.S. Census Bureau data make clear that **the vast majority of tipped workers in New York earn just slightly above the minimum wage, even once tips are included.**

The median hourly wage for the estimated 229,930 tipped workers in New York is just [\\$9.60 per hour](#), and for waiters and waitresses specifically, the median hourly wage is just \$9.14 per hour.

Nationally, [tipped workers experience poverty at substantially lower rates in states that have eliminated the tipped sub-minimum wage](#), even while those states do not show lower poverty rates for workers overall.

Raising pay standards for tipped workers in New York is also an urgent priority for the state's economy, particularly as the restaurant industry and other service sectors that employ tipped workers are



projected to rank among the largest growth sectors in the state over the next decade. According to the New York State Department of Labor, Food Services and Drinking Places ranks in the [top five largest growth sectors](#) in nine of the 10 major regions of the state.

Putting more money into the pockets of the growing number of low-income workers who will be relying on these jobs to make ends, and who will immediately spend their additional earnings at local businesses on basic necessities, boosts the consumer spending that drives our state's economy.

A More Enforceable Base Wage: Under New York's wage rules, when tips are not enough to bring a worker's average wage up to the full minimum wage, the employer is supposed to make up the difference by "topping up" the employee. But this complex system requires extensive tracking and accounting of tip flows.

That process is complicated by the fact that: (1) employers are allowed to average tips over the course of the entire work-week and required to "top up" only if an employer has enough bad shifts over the course of the week that the employee averages less than the full minimum wage overall; and (2) tips are allowed to be pooled among various categories of restaurant employees such that a portion of the tips that a waitress or waiter receives can legitimately be reallocated to other employees.

As a result of this complex system, it is widely recognized that many employers, whether through oversight or deliberately cutting corners, fail to "top up" employees when their tips fall short of the full minimum wage.



As a 2014 [White House National Economic Council Report](#) found, “in practice, [the requirement that employers must “top up” tipped workers if their tips run short] is difficult to enforce.

When surveyed more than 1 in 10 workers in predominately tipped occupations report hourly wages below the full Federal minimum wage, including tips. (By comparison, just 4 percent of all workers report hourly wages below the minimum wage).

By contrast, **the base tipped wage – which appears directly on the employee’s pay stub and may easily be verified by the employee – is more readily enforceable and more consistently complied with.** Guaranteeing that the base tipped wage paid directly by the employer is the full minimum wage would simplify the complex rules surrounding the tipped sub-minimum wage and provide tipped workers a more substantial base income that is less susceptible to abuse.