AGENDA
St. Paul Minimum Wage Study Committee
Thursday, July 12, 2018, 8:30 a.m. – 11:00 a.m.
(light breakfast provided)
University of St. Thomas – McNeely Hall, Room 100
2060 Summit Ave, St Paul, MN 55105

Proposed outcomes for this meeting

- Review study committee charge and proposed goals
- Review Study Committee process
- Receive follow up on research questions
- Hear perspectives from a panel opposing a tip penalty
- Discuss information received and confirm additional information needed
- Agree on next steps

8:30 a.m. – 8:50 a.m.
Light breakfast served

1. Welcome — B Kyle and Rick Varco, Co-Chairs

   a. Review committee charge and proposed goals for committee work
      - *Understand current minimum wage policies*
      - *Evaluate and provide feedback on options for the following four ordinance components:*
         a. Minimum Wage Rate and Indexing to Inflation
         b. Exemptions
         c. Tip penalty/credit
         d. Phase-in time
      - *Make recommendations based on these findings and conclusions.*

   b. Approval of minutes
   c. Debrief of previous meeting

8:50 a.m. – 9:00 a.m.

2. Research update — Thomas Durfee, U of MN

9:00 a.m. – 10:25 a.m.

3. Tip Penalty Panel
   Alison Diffendal, Server, Baker's Square
   Sean Iredare, Lead Line Cook, Ngon Bistro
   Eli Edleson-Stein, Server, St. Genevieve, and Organizer, Restaurant Opportunities Center
   Sam Peterson, Owner, Kyatchi Restaurants
   Ken Peterson, Commissioner, Minnesota Department of Labor and Industry
   Kristin Tout, Assistant District Director, U.S. Department of Labor, Wage, & Hour Division

4. Q&A

10:25 a.m. – 10:55 a.m.

5. Study Committee Discussion — Rick Varco, Co-Chair

10:55 a.m. – 11:00 a.m.

6. Next steps — Rick Varco, Co-Chair
7. Evaluate meeting
8. Adjourn

Upcoming Meetings
July 19 at 100 McNeely Hall, University of St. Thomas, St. Paul

Citizens League's Governing Document

An internal document for Citizens League Board, staff, members and key partners that describes who we are, how we do our work, and how we measure success.

Mission. The Citizens League is a member-supported nonpartisan nonprofit organization that champions the role of all Minnesotans to govern for the common good and promote democracy.

Vision Statement. Through our work:

- Minnesotans of all backgrounds, parties and ideologies are engaged, inspired and empowered to see the role they play in public policy and act on it, reigniting Minnesota's ability to implement innovative and effective policy solutions for the 21st Century; and
- The Citizens League is a relevant and respected policy resource, leveraging the strength of our 60-year legacy with a focus on solving tomorrow's problems, and earning the ongoing support of our members, board, leadership and staff.

Operating Guidelines. We are unique in our ability to address <u>*how*</u> policy happens. We do this by:

- **Bringing diverse perspectives and people together.** We serve as a rare neutral convener – true "common ground for the common good" – in a fractured political and policy landscape.
    - <u>Standard</u>**:** People impacted by a problem should help to define it in light of their own self-interest and the common interest of all Minnesotans. Bringing people together across boundaries of ideology, backgrounds, race/ethnicity, geography, sectors and parties produces a better definition of the problem. Ideally, this process should help clarify the role that individuals and organizations can and should play in policy questions.

- **Advancing policy solutions in collaboration with a broad base of support.** Engaging diverse stakeholders creates the breadth of resources necessary to impact policy.
    - <u>Standard</u>: Transparency and good governance are critical to building trust between all parties involved in the process, and evaluation is critical at every stage. If people trust the process, they are more likely to trust the outcome.

- **Reframing the conversation.** People look to the Citizens League for objectivity: weighing short-term self-interests of all parties involved and long-term needs of Minnesota. We work with all types of Minnesotans to understand important public policy issues and the role citizens can play in contributing to solutions.
    - <u>Standard</u>**:** *Data and evidence-based research should be the foundation for decision-making, and policy statements of all types must be accessible and connect the larger systemic policy issues to the real stories of Minnesotans impacted by these policies*.

- **Considering political pragmatism along with policy idealism**. The goal is not just to promote a set of ideas or proposals, but to have a real and sustained impact on the policies and systems that impact the quality of life and economic health of Minnesotans.
    - <u>Standard</u>: *Our proposals should be politically achievable and plausible inside a variety of organizations and sectors, including but not limited to government, without sacrificing the long-term interests of Minnesotans.*

PACKET CONTENTS

MINUTES

Citizens League
Saint Paul Minimum Wage Study Committee
Thursday, June 28, 2018, 8:30am-11:00 am
University of St. Thomas, McNeely Hall, Room 100
2060 Summit Ave, St. Paul, MN 55105

Committee Members Present: Co-Chair B Kyle, Co-Chair Rick Varco, Mr. Bob Brick, Mr. Dillon Donnelly, Mr. Paris Dunning, Mr. Matt Gray, Mr. Jon Grebner, Mr. Matt Halley, Ms. Mary Hicks, Mr. Andrew Kopplin, Ms. Rebecca Lucero, Mr. Tim Mahoney, Ms. Veronica Mendez Moore, Mr. Oscar Murcia, Mr. Sam Peterson.

Members Not Present: Mr. Barry Gisser, Mr. Doug Hennes, Ms. Sarah Kopp-Reddy, Ms. Kera Peterson, Ms. Pang Vang.

Staff & Staff Support Present: Pahoua Hoffman, Angelica Klebsch, Thomas Durfee, Snowden Stieber, Ben Gleekel.

Observers Present: LyLy Vang-Yang, Melanie McMahon, Owyn Ferguson, Natalia Madryga, Celeste Robinson, Yingya Vang, Jennifer Schellenberg, Yao Yang, Jeff Peterson, Colleen Nocerini, Kip Hedges, Daniel Yang.

Proposed outcomes for this meeting

- Review study committee charge and proposed goals
- Review the study committee process
- Receive follow up on research questions
- Hear perspective from a panel of hourly workers.
- Discuss information received and confirm additional information needed
- Agree on next steps

WELCOME

Co-Chair Varco opened the meeting at 8:31 a.m. He welcomed all committee members, panelists, and guests to the meeting, and reminded everyone to avoid the use of social media during the meeting. He reviewed proposed outcomes (see above). Co-Chair Varco then reviewed the charge of the committee, and then presented the minutes of last week's meeting. There were no proposed amendments. There was a motion to approve the minutes as read, and seconded. Motion passes.

REVIEW OF PROCESS

Ms. Hoffman gave a presentation on how the committee will begin transitioning to the development phase. She emphasized that each study committee has a different makeup and a different process, but she would show the committee members a previous Citizens League report, on reforms to the Metropolitan Council, as an example of what is possible. Each report would be defined by the scope of work, which in this committee involves the 4 charges given to it by the City of Saint Paul surrounding the minimum wage. The report would define terms and provide findings and conclusions. Ms. Hoffman said it was the responsibility of the Citizens League staff to compile all the notes and observations made during the learning phase and to present them back to the committee members.

Ms. Hoffman then showed the committee the executive summary from another Citizens League report that focused on transit finance. The summary included two statements of problems that 100% of the committee agreed with. She said that, while committee members might hold different opinions on what the final minimum wage ordinance should be, she thought that every member was in agreement that the minimum wage has not kept up with the cost of living. Ms. Hoffman also said that the final report could take one of many different formats: some have had a majority-minority report, while others might present a menu of options to give to the Mayor and the City Council. She said that the current minimum wage committee might present a variety of scenarios, each with their own set of recommendations, and that she had told the Mayor and City Council that this might happen. Ms. Hoffman said that the members should not feel the pressure to ensure that everyone is in agreement, that a final report can reflect a diversity of opinions.

DEBRIEF

Co-Chair Varco asked committee members to share their thoughts or comments on last week's meeting.

A committee member said they left last week's meeting feeling frustrated that they did not get the chance to gather the information they needed for the committee to accomplish its goals. They felt that active listening was not happening. The panel was there to share their experiences, but too often they ended up in arguments with the members. The panel, therefore, did not have adequate time to discuss their plans and worries for when the minimum wage ordinance is implemented. Additionally, there had been questions that weren't questions, but rather statements in support of the panel. The committee member said they thought the committee was still in the learning and listening phase, and that later in the process would be the time for members to express support and opinions. They also noted that the panel was allowed to talk longer than their allotted time, that the panel members seemed determined to give a presentation in a certain format rather than respond to the committee and its warnings about time limits. The committee member said, in their own conversations with fellow business owners, it took a while to get to the root of their fears and worries, and that last week's meeting did not get to those level of conversations. They said they did not want future panels to run into the same problems as last week's.

Another committee member said that last week, Mr. Robinson from the Smokehouse did describe the future plan for his restaurant, including going to counter service or installing a service fee. The member also said that Mr. Crew from W.A. Frost talked about the shrinking margins and loss of hours for back of the house workers at his establishments. The committee member said that in their own restaurant, they were cutting an hour off the end of the day for three workers as Minneapolis's higher wage began to kick in this July. They said that last week's panel got slowed by a number of questions that made tip credits seem unnecessarily complicated, when in reality restaurants can easily handle the system. They also said that the issue of tip credits is such a hot-button issue, that people tend to get off base very quickly. The member said that the proposal to extend conversations a half-hour would have been especially useful for last week's panel.

A committee member said that they agreed with the first committee member's comments. They said the members need to remember their roles as listeners at this point in the process, and that the time for making a case will come later.

Another committee member said they were frustrated that last week's meeting went over time, which in turn meant that the members weren't able to hear from each other. They were excited to have 30 extra minutes to discuss issues with fellow committee members, not to have longer presentations from panels.

A committee member, as the owner of two restaurants, said they understand the anxieties of restaurant owners. The member said they felt there were some inaccuracies in last week's presentation. Several panelists mentioned price increases ranging from 33% to 50% for various food items. The committee member said in their own restaurant they raised their prices about 3% when the state minimum wage went from $7.25 to $9.50 per hour. The member said, in order to get their servers from $9.50 to $15 per hour, they planned on increases of 1% or 2% per year, for a total increase of about 7% over 5 years. Overall, the member said they are anticipating a 10% increase in prices. They also expressed skepticism at the counter service claim of some panelists. The committee member said if they could make more money in their restaurants by switching to a counter service model with less staff, they would not wait until 2021 to do it, they would do it tomorrow. The committee member also said they were not cutting any hours in their Minneapolis restaurant, but in fact were adding more staff, with an additional prep cook and chef.

Co-Chair Varco said that he and Co-Chair Kyle were still in discussions on how to better format and guide panel discussions at future meetings to ensure that there was adequate time for committee members to talk about the issues with each other.

PRESENTATIONS

Mr. Durfee presented his research on industry breakdowns of wages in Saint Paul: who earns $15, who pays $15 by size of employer, and who pays $15 by industry. He explained the new sources from the Minnesota Department of Employment and Economic Development (DEED) that gave him unemployment insurance data for Saint Paul. While the data would not include workers like contractors or self-employed attorneys, over 90% of jobs are covered, and the data would focus on Saint Paul specifically, not Ramsey County at large. Mr. Durfee said that the pay he's referencing in the presentation includes tips. He said that this data would be the best that he could get his hands on, and that he trusts this data more than any other source he had seen.

Mr. Durfee presented information on who earns $15/hour. He reminded the committee that firms earning over $500,000 per year had a minimum wage of $9.65 and firms earning under $500,000 had a minimum wage of $7.87. He said that most jobs in MN paid over $15/hour, but many workers earned between the minimum wage and $15/hour. Mr. Durfee said that St. Paul had more jobs under $15/hour than Minneapolis, and fewer jobs above $15/hour than Minneapolis, and therefore a greater share of jobs would be affected by a $15 wage in St. Paul than in Minneapolis.

A committee member asked if these numbers reflected both vacant jobs and filled jobs. Mr. Durfee said the data only related to filled jobs. He said that he was still working on the job vacancy survey, which would show the profiles of vacant jobs.

Co-Chair Varco asked if it was possible to breakdown the group of jobs paying between the minimum wage and $15/hour, which would help inform any phase-in for an ordinance. Mr. Durfee said he had not received that data from DEED, but that he would ask for it.

Mr. Durfee presented a breakdown of $15+/hour jobs based on the size of employers. He said that, in general, $15+/hour jobs tended to be at large firms (100+ jobs). He said that subminimum wage jobs tended to be with small firms. He said that a flat $15/hour minimum wage would require greater catch-up for small firms.

A committee member asked how franchises are categorized. Mr. Durfee said that firm size was determined by the number of jobs at each location.

Co-Chair Varco said that the upshot of franchising is that, even though there are 30 or 40 McDonalds around the city, each one would qualify as a small employer because they have less than 100 workers. Mr. Durfee said he would double-check, but he believed that was the case.

Mr. Durfee then presented a breakdown of $15/hour jobs by industry. He said that he included in his presentation the seven industries that form the largest share of the labor market for both jobs above and below $15/hour. He said one immediate takeaway was that for workers on either side of $15, the health industry and social services are a large part of the story, that they are a large portion of the labor market however it is sliced.

Mr. Durfee clarified that the category of “administration and waste” included a variety of jobs, but that it was largely janitors and sanitation workers.

Co-Chair Kyle asked if the breakdown by industry had also included a further breakdown by firms with over or under 100 jobs. Mr. Durfee said he was not able to make size distinctions in his industry breakdown, but that he was looking at further data. Co-Chair Kyle asked for Mr. Durfee to try to make that breakdown if it was possible, and report back on the findings, or report back that he was unable to do it. Mr. Durfee said he would.

A committee member said that the categories of education services, health care, and arts/entertainment/recreation, are all likely covering the nonprofit sector, which make up 24% of jobs in St. Paul. Co-Chair Kyle asked the committee member if Mr. Durfee’s data was a sufficient representation of the nonprofit sector, and the committee member said that it was.

A committee member asked for a clarification on reading the charts. Mr. Durfee said that he included a raw head count in the report which might be easier for some people to read. He also reiterated that, overall, more jobs paid over $15/hour, so they would represent a larger portion of most industries.

Another committee member asked if Mr. Durfee had yet made a breakdown on race. Mr. Durfee said that the current data did not allow him to do that, but that he would be looking into the

American Community Survey and that he was planning on presenting data on race at a later meeting.

PANEL

Co-Chair Varco outlined the structure of the panel and how the process would work. He said there will be 30 minutes with the panel giving testimony, which includes time for brief clarifying questions. After that, there will be a Q & A period, which will allow for open-ended or more pointed questions. Finally, there will be a 30 minute period for discussion between committee members. He also reiterated that it was important to assume everyone was engaging with good faith, and that everyone was bringing their best efforts to the table.

Ms. Antonia Sanchez introduced herself. She lives in St. Paul and has been cleaning for 14 years. She has 10 years with the same company, and she gets no benefits. She does not qualify for Earned Sick and Safe Time because the company is based in Texas. She did not want the same problem to happen with a minimum wage. She said that there were a number of Hispanic workers at her job, and that they were all paid low wages and among the hardest workers. Ms. Sanchez said that many of her co-workers did not attend these meetings because they did not know about CTUL. She said that she hoped that the committee would hear their voices and that if it was in the committee's hands, she asked them to help pass the $15/hour ordinance. She thanked the committee for listening to her.

Mr. Marquise Tatum introduced himself. He is 16 years old, attends high school on the east side of St. Paul, and he lives at home with his mother and one of his brothers. He said that poverty is about not being able to survive. He said that many times he would have to go to sleep in order to ignore his hunger. He said he did not think there should even be a conversation about poverty, that everybody should be on the side of fighting poverty. Mr. Tatum said that 40% of Saint Paul is living in poverty, and that you could not fight poverty by adding more jobs at poverty wages. He said that $10/hour simply could not address a person's needs. He did not think there was a need for any carve-outs, even for teen workers. He asked if teens are the future, why would we keep the future broke. He said that people who earn six-figures but opposed a higher minimum wage were very frustrating to him.

Ms. Shirley Henderson, a small business owner from Seattle, spoke. She said that she came from Seattle to the panel because she had been part of the fight for $15 in both in Seattle and Minneapolis, and she wanted to help explain the process. She said that Seattle and the Twin Cities were similar because they both housed some of the wealthiest corporations in the world. She said that wealth inequality is rampant in both cities. Shirley said her small business pays its employees $15/hour today, even though there is a phase-in. She said, for a small business, the first interest is in having a vibrant community. Without a healthy community, the small business will not survive. She said she was here to debunk the fear mongering around higher minimum wages, which she felt had always been proven wrong by history.

Shirley said that she had built a $15/hour wage into her model when opening her small business. She said that while some owners would react strongly to the idea of higher minimum wages, with creativity a small business can definitely manage it. She said that it was important to ask local government to help the small businesses, that large businesses receive a huge amount of handouts, but that the small businesses get huge burdens. In Seattle, a city council member had presented a plan for a municipal bank, commercial rent control, increasing public transit, and a civic 401(k) as ways to help small businesses and help workers in poverty.

Shirley said that the priority should be to make it work, because the poverty gap is immense. She said that the city should get creative on how to support small businesses do this. She said that President Trump was slashing infrastructure and support. A phase-in for smaller businesses is good, because the higher wages at large businesses will be spent at smaller businesses, enabling the small businesses to afford the increase. She said that exemptions go to those who can afford it the most, and that the people who can afford it the most are fighting against it the hardest.

Ms. Jessa Manthe said she has been working for 10 years in retail, both during and after her time in college. She worked full-time and still couldn't afford the tools to invest in her education, and she couldn't afford rent. In order to make ends meet, she said she had to take out more loans, which will now follow her around for the next 25 years. She said the loans have affected her ability to buy a house or choose to have kids. Now, as a manager, Jessa said she sees many on her staff struggling with stagnant wages and struggling to pay for basic necessities. She said that, as a manager, a $15/hour wage would bring dignity to her staff, and they'd have greater engagement in work. She said that for a worker making less than $15/hour, their entire existence is making it to next pay day. If workers could make more and have more dignity, they would be able to more fully participate in society and further contribute to their communities. Jessa said this is the kind of world she wished to live in, and said that was why she supported a $15/hour wage.

Ms. Sumer Spika, a full-time homecare worker and union organizer, presented next. She has worked in home health care for about 11 years, and her husband has MS and requires a homecare worker for himself. They have four children, and her husband cannot work, so her income is all that her family receives. She said having a higher wage would allow her to not have to make choices between paying bills, and give her the freedom to take care of her family and herself. She said she was forced to go back to work 4 days after giving birth to two of her children. Sumer said that she was trying to find another homecare worker for her husband, but that it was almost impossible, since no one wanted to work for $12/hour. She said that most people who worked as PCAs had to work multiple jobs, because the wages were so low. Sumer said at one point she was working 90 hours a week and still had to rely on food stamps and medical assistance. Summer said that the work that she did was important: helping people go to the bathroom, help with medicine, and help people engage with society and live their best lives. She said that home healthcare workers have been left out of the Fair Labor Standards Act, and that she thought that was wrong. She recognized that reimbursement rates did not make it easy for PCA workers to receive a higher wage, but that with a phase-in time and a change in state law, all workers could enjoy a higher standard of living. She also said that the cost of institutionalizing people receiving home healthcare would cost the state more than increasing the wage for home healthcare workers.

Ms. Sanchez said many of her coworkers, including herself, were single mothers. She said that if they were paid more fairly, that they would not have to leave their children at home. She said that she had been told "you're in America, speak English," and her response was that since she was in America, she should be paid like Americans. She said that she knows many Hispanic people who have to work two full-time jobs, which does not give them any time to learn English or better themselves. She thanked the committee for listening, and that she knew the committee members were people with feelings, and that they would make the best decision for Saint Paul and for the people who work in it, allowing them to have a life of dignity.

Shirley said that the common fear of businesses closing because of a higher wage was not true, that Seattle's economy was in fact booming due to raising the standard of living by raising the minimum wage. She said the sky did not fall in Seattle.

Mr. Tatum said that he worked at a nonprofit organization called Urban Roots, and that he was a conservationist. He said that a 5 year phase-in time was too long, that he needed a $15/hour wage now.

A committee member asked if Shirley lived in the Twin Cities, and what kind of business she owned. She said that she lived in Seattle, and that it was a coffee shop and hair salon. The committee member asked Sumer if she owned her home healthcare company, or if she was a worker. Summer said she was a worker, that she did not own a business.

A committee member clarified that the poverty rate in the City of Saint Paul was 22.3%, and that the 40% statistic referred to was for people living below the threshold of 185% of the federal poverty line. Jessa said that, regardless of whether it was 22% or 40%, it was a question of values, and of what kind of city we want to live in.

The committee member thanked the panel for coming, and appreciated their courage. They agreed that the 22.3% was still egregious, but said that it was important to have accurate data to assess the situation. The member asked the panel, given there were 68,000 unfilled jobs in the Twin Cities that paid $15+/hour plus benefits, what were the barriers to people transitioning to the jobs with higher pay, and what could the committee do to address the barriers.

Mr. Tatum said that for people who are underage, there wasn't a lot that could be done, since companies refused to hire young people. Ms. Sanchez said that there are many workers who lack the documentation or status that would enable them to find a higher-paid job. Sumer said that if a worker is unable to make their ends meet, they might not have the transportation to get to the jobs.

Mr. Durfee asked Shirley about how geography affected a minimum wage. Shirley said that there had been a lot of fear in Seattle about jobs moving out of the city, but that the opposite had been true—Seattle was having such an economic boom, that more jobs were being created and filled. Mr. Durfee asked Sumer if the fact that Minneapolis paid more would make it more attractive, even if someone lacked transportation. Summer said if a person in Saint Paul did not have reliable transit, they would look in Saint Paul, even if the wages were lower. She said that, in the home healthcare field, many people quit much higher-paying jobs in order to stay home and care for loved ones. She said that they could not look at moving to higher-paying jobs because it would mean that their loved ones would be institutionalized.

A committee member asked if the panel thought that exemptions/carve-outs were a good idea or if the committee should be looking for different solutions. Jessa said that it was about values, that the city should be looking for people-focused solutions. Shirley said that she thought that the firms fighting for exemptions and carve-outs were the ones that could most afford it. Mr. Tatum said that he did not want any carve outs at all. Ms. Sanchez said that it was important to ensure that keeping the cost of rent and food from rising, otherwise the workers would end up in the same place they are now.

Co-Chair Varco asked the panel how many hours they worked, and how much their incomes mattered to their families. Mr. Tatum said that he worked 38 hours a week and that money was going to cover both himself and his mother, who has disabilities and only receives $400 a month. Ms. Sanchez said she is the sole breadwinner in her family, and she has one daughter still living at home. She works 90 hours a week, and does the work of three people. She makes $11.50/hour, even though she's worked there for 10 years. Jessa said she works 40 hours a week, and they are inconsistent, which makes it difficult to invest in much outside of work. She said that her husband makes more money than she does, which gives them some breathing room. Jessa said that while she is in a good place, she had seen other low-paid workers stay in bad relationships because they did not make enough to support themselves. Sumer said that she works about 80 hours a week between her two jobs, but she only gets paid for 36 hours a week.

Co-Chair Kyle asked the four local members for their experience on rising cost of rent and groceries. Marquise said that if he had a higher wage, he would be able to pay for higher costs. Ms. Sanchez said her rent had recently increased $50 per month, but her wages had remained the same. She said she did not receive any benefits, and no vacation time. Jessa said that if prices rose 10%, but it meant a higher wage for everyone, she would be willing to pay it. Sumer agreed. Jessa said that the values that shape our solutions will be very important.

A committee member asked Shirley about Seattle's credit for people who paid health insurance. Shirley confirmed that Seattle had such a credit, but that in her opinion it was an unfortunate carve-out, since it affected workers negatively during the phase-in.

The committee member asked the panel if they preferred a $15/hour with no benefits or a smaller minimum wage with access to benefits. Everyone on the panel said that they didn't want either of those choices.

A committee member asked Sumer to explain her typical day as a home health care worker. She said that she was also a union organizer, but when she did health care, it included helping her clients get out of bed, feeding them, helping them with toilet access, with getting people to and from their jobs and medical appointments.

A committee member thanked the panel for appearing, and told them that the member had learned a lot from their stories. The committee member asked the panel to talk about the cost of housing and how it had impacted how far their wages go. The committee member said they had seen numbers suggesting that the minimum wage would have to be $19/hour to afford food and housing, and they wondered if $15 would help the panelists actually meet their needs.

Ms. Sanchez said that $15 would be a good start. She said that a higher wage would give her the time to learn English, to spend time with her three grandchildren, time to go to church. She said that she had always wanted to volunteer at hospitals and pray with the sick. She said that she liked Saint Paul, and loved living here.

Jessa said that time, freedom, and dignity were important. She said that she wanted to save for a house and maybe start a family. She agreed that $15 might not be enough, but it is a definite improvement.

Sumer said if she had a $15/hour wage to offer a home health care worker to take care of her husband, she would be able to finally fill the role, because they have been looking for months. She said right now she is competing with places like Aldi that offer almost $15/hour with benefits. She said Minnesota has a care crisis, and it is only going to worsen. With a carve-out for PCAs, she said she cannot imagine ever being able to find a home healthcare worker, which would mean that she might have to institutionalize her husband.

Jessa said that there are adverse health impacts to living in poverty, including constant stress, inadequate nutrition, and lack of access to other health necessities.

Co-Chair Varco asked Jessa to talk about how working at low wages prevented her from having the time to find the skills for a higher paying job. She said she didn't have time and tools to be successful in school, since she was working full-time to pay her bills. She took out loans, thinking she would find a good job and pay them off, but she ended up not having the time to search for a better job or develop the necessary skills, and was therefore stuck at her low-paying retail job.

Co-Chair Kyle asked the local panel members if they were concerned that the companies they worked for might close if the firms were unable to handle a higher minimum wage. Mr. Tatum said that the businesses would give them a heads up, and allow them to search for another job. Ms. Sanchez said, due to the contracts her employer had with national corporations, she didn't think her employer could close. Sumer said that phase-ins for home-health care workers could help mitigate closings, and also the state legislature needed to implement a higher reimbursement rate.

A committee member asked Shirley if there was a carve-out for tips in Seattle. She said there was. The committee member asked if she knew the difference in annual incomes between Seattle and the Twin Cities. She said she didn't know about Minneapolis and Saint Paul, but she knew Seattle's average annual income was $80,000. The committee member asked if she was opening a business in the Twin Cities. Shirley said she was not planning on one, she was on the panel to provide her experience from Seattle and as a small business owner, since the impacts on small businesses seemed to be a primary concern.

Co-Chair Varco closed the Q & A and thanked the panelists for their time and comments.

COMMITTEE DISCUSSION

Co-Chair Kyle asked committee members who owned small businesses what they thought about the statement that "people who push for carve-outs are the ones who can afford it, and the $15/hour wage was good for small business."

One committee member said that while the statement about carve-outs was a generalization, in their experience, the member thought it was true. The committee member had received a Star Grant from the City of Saint Paul, and at the Star Grant meeting the large developers had everything ready to go while it took the committee member months to complete the application with the help of their spouse. The member said it was a process that was theoretically designed for small businesses, but the process seemed to work well for those who had deep pockets. The committee member said that they agreed that the higher wage would be good for their coffee shop. The median income in Saint Paul is $52,000, which the member said meant that half the city could not afford their coffee. Strictly as a business statement, the higher poverty rate meant that his business had less customers.

Another committee member said that their small business would have to increase prices, but that it would be incremental. They said that their employees have seen the member on television, and wondered what they are doing on the committee. The employees did not know there was going to be a higher minimum wage in Saint Paul, and they were excited by the news. The committee member had told their employees that they would have to cut some hours. The member agreed with Ms. Sanchez, that a fairer wage was important, but that rising costs will affect prices in many places. The member had his rent increase $100 per month recently, and they were also concerned with the cost of their wholesalers.

Mr. Durfee clarified that the determination of small/large firms was not based on jobs per location, but on total jobs from the employer. Therefore, even if a Best Buy location had 99 jobs, since Best Buy overall had more than 100 jobs, they were considered a large firm. Co-Chair Varco asked if that held true to franchises, if it was determined by how many jobs a franchise owner had, or how many McDonalds had overall. Mr. Durfee said he would look into it and get back to the committee.

A committee member said they had 52 employees, but they did not consider themselves a wealthy person. They consider themselves a “hundred-dollar-aire.” The committee member recalled that around 80% of businesses in Saint Paul were small businesses. A number of small business owners could not afford to participate in the study committee because they were not making enough money to take the time off to participate. The committee member felt that claim that businesses pushing for carve-outs were most able to afford paying the wage was an inaccurate generalization.

Another committee member said they thought the statement meant that the society and City of Saint Paul could afford to pay people, not that individual businesses all could afford the minimum wage. The committee member’s own business could not afford the wage, but they were hoping the committee could find creative solutions to make it possible

A committee member said the committee should make clear to the City Council and Mayor that there is a lot of work needed to combat poverty and improve conditions for upward income mobility. The member felt that it would be disingenuous for the Mayor and City Council to treat a minimum wage ordinance alone as the way to fight poverty. They said that workplace development was a crucial tool, that there was a large disconnect between the number of open jobs and the number of people wanting higher-paid positions. The member said that the committee could talk in a unified voice on the issue

A committee member said they were interested in the City providing a progressive slate of ways to help businesses move forward. The member thought Shirley’s discussion on measures taken in Seattle was very inspiring, including the ideas of rent control and a municipal bank. The member was excited for the opportunity to recommend solutions to the City of Saint Paul that will help small businesses.

Another committee member said that workforce development is essential, and the fight for mobility is an important task, but there will also be some low-wage jobs that are always going to need to be done. The member thought it was important to ensure that even those workers received a good wage.

Co-Chair Kyle said that while she spends much of her own time at work thinking about workforce development, skills gaps, and vacant jobs, but she was struck by Sumer’s comments about her husband with MS. Regardless of the number of vacant jobs, there are current filled jobs that must be done, and no amount of training for upward mobility can remove the need for home healthcare workers or for employees at discount shopping stores.

Co-Chair Varco said that he was struck by the problem of low wages today can cause people to be unable to gain the skills or opportunities for better jobs tomorrow. He said that certain economic positions can become self-perpetuating, and the committee should remember that particular problem as they consider their recommendations and solutions.

A committee member felt challenged by the language that treated people who were for some exemptions as opponents to a broader living wage. They felt defensive when the framing suggested that if someone supports exemptions, their values must be different. They said that such language obscured the potential for nuance and for agreement among people on the committee. The member said they spend most of their time at their job raising money for their nonprofit which pays young people to learn. The member did not believe that there needed to be a youth exemption, but thought that it was different when a young person is being paid to learn. The member really appreciated Mr. Tatum's contribution to the panel, and they said that their own nonprofit business was very similar to the one that Mr. Tatum worked for, Urban Roots. The member said that they knew the director of Urban Roots, and that the director had some of the same concerns as the committee member, that their nonprofits might not be able to afford a $15/hour wage for paying the kids to learn.

Another committee member clarified that the member was not advocating for an exemption for the adult staff at the nonprofit, that the exemption would be for the program participants who were in job training.

A committee member said that they were grateful that they didn't have to solve every problem. The member said that the committee hadn't been asked to solve all the problems, such as the housing crisis or the increasing cost of food. They encouraged the committee to remember what they had been asked to look at, and to not spend time looking for problems, but to focus on solutions.

A committee member said that the committee had not spent much time yet discussing the issue of on-boarding. There are a number of people who are out of the workforce entirely, and a number of vacant jobs that are at the entry level. The committee member was astounded that the City of Saint Paul has not weighed in on Right Track, which was a partnership between the City, the schools, and local organizations to ensure youth employment opportunities. They encouraged the committee to keep youth training, workforce development, and on-boarding in mind as the recommendations are formed and explained what Right Track was.

Mr. Durfee said that, as was highlighted by Ms. Sanchez's employer not granting her Earned Sick and Safe Time, the committee should consider what recommendations might be needed to make sure employers play by the rules.

CLOSING

Co-Chair Varco said that they would forego reviewing the community response today in the interest of time.

Ms. Hoffman attempted to use voting clickers. It did not work.

Meeting was adjourned at 10:59 a.m.

Ratings: 5, 4, 4, 5, 3.5, 5, 4, 4.5, 5, 4.5, 4, 4.5, 5, 4.5, 4.5. Average = 4.46

Tipped Workers
Need One Fair Wage in St. Paul

What is a tip penalty?

- A tip penalty is a policy that allows an employer to pay a worker a subminimum wage if that worker receives tips. (Currently the federal definition of a tipped worker is a worker that claims $30 in tips per month.)
- If a worker's tips do not bring their hourly pay above the standard minimum wage, an employer is legally required to make up the difference.
- *"A Tip Penalty by any other name would be as bad!" – William Shakespeare* (Why so many names?)

What we know about a tip penalty:

- A tip penalty asks workers and customers to subsidize the minimum wage with tips. Effectively it forces tipped workers to rely even more on their tips for their income and less on the guaranteed wage.
- **In states with a tip penalty, tipped workers are more likely to live in poverty, experience sexual harassment at a higher rate, and are more prone to wage theft.**

What workers are affected by a tip-penalty?

- Servers and Bartenders
- Full Service Restaurant support staff (Wait-Assists, Foodrunners, Bussers, Counter staff, Barbacks, Hosts)
- Counter-Service workers
- Baristas and coffee shop workers
- Valet drivers
- Salon workers
- Coat check attendants

How Much $$$ Do Tipped Workers Make?

Table 1. Hourly wages for select tipped occupations in the St. Paul metropolitan area

Occupation	Average Wage	Median Wage	90th Percentile
All occupations	*$26.94*	*$21.26*	*$49.22*
Waiters and waitresses	**$12.77**	**$10.29**	**$20.81**
Bartenders	**$11.46**	**$10.19**	**$14.90**
Hosts and hostesses, restaurant, lounge, and coffee shop	$11.50	$10.87	$14.81
Counter attendants, cafeteria, food concession, and coffee shop	$10.62	$9.94	$12.25
Dining room and cafeteria attendants and bartender helpers	$11.07	$10.19	$13.79
Food servers, non-restaurant	$13.21	$12.00	$18.50

Source: Bureau of Labor Statistics, May 2017 Occupational Employment and Wage Estimates.

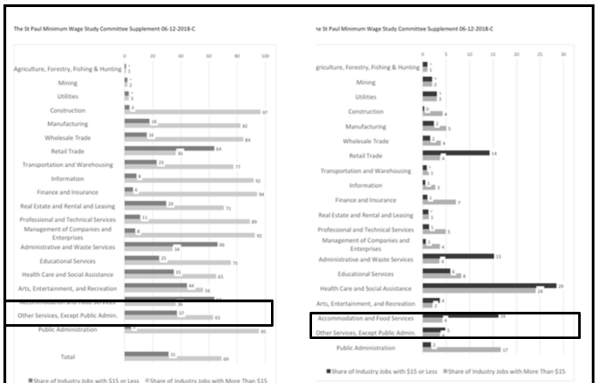


Figure 2: Share of Jobs in Industry According to Industry (2017)

The reality for tipped workers:

- Tipped workers are not rich. The majority are making under $15. (See NELP and DEED reports)
- Most tipped workers in MN are women, many of whom are raising children. (See SOTRW)
- We currently work in an industry with the some of the highest rates of sexual harassment and wage theft of any industry. (See Buzzfeed analysis of EEOC data from 1995-2016 and EPI Wage Theft report)
- We have access to employer-provided benefits at a fraction of the rate of workers in other industries. (EPI Report)

Tipped Workers in MN:

- 74% Women
- 32% Mothers
- Over 50% P/T workers (see EPI report)
  - compared to 20% in the rest of the workforce
  - Less likely to access employer-provided benefits
  - 3.5 times more likely to experience wage theft
- Over 50% with some college education (debt!)

Reality of the Our Industry:

- Industry has continued to grow with rising wages! While the statewide minimum wage rose from $6.15/hr - $9.50/hr our industry grew (employment, establishment, and sales) despite strong industry opposition to the statewide minimum wage raise.
- St. Paul has built a strong restaurant industry on fair wages for all workers.
- There is no evidence that shows that lower wages promotes industry health or growth. (Even the widely cited Harvard study did “not find robust evidence that higher minimum wages lead to overall increases in restaurant exit rates.”)
- Tipping remains the norm in the highest wage industries. (See Upserve and Square POS analysis of tipping)

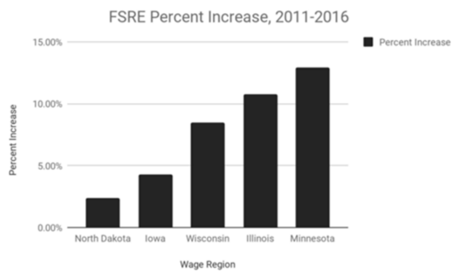


Figure 4. The increase in the level of full service restaurant employment was higher in OFW states as an aggregate, and when considering Minnesota alone. States with a subminimum wage, ranging from $2.39-$4.95, experience lower FSRE growth. Higher wages promote healthy full service restaurant employment growth.

Bureau of Labor Statistics, Quarterly Census of Employment and Wages. 2011-2016 data for number of full service restaurants, 722511. Looking at data for MN, IL, ND, and IA. Available at: https://data. bls.gov/cgi-bin/srgate (accessed 2/5/2018).

Industry opposition to workers:

The Minnesota Restaurant Association has fought against workers at every turn.

- “Pathway to 15” initiative in Mpls; MRA + Lockridge, Grindahl & Nauen, RWA
- Lobbying for tip-penalty at the state level (most recently for a tip-penalty that would have frozen tipped workers wages at $8/hour and eliminated the index for inflation.)
- Lobbying against paid sick and safe time
- Lobbying for Preemption (against this process…)

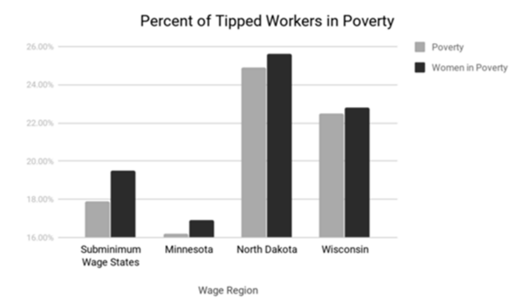
Sexual Harassment

- A tip penalty forces tipped workers to rely more on their tips for income.
- Full Service Restaurants are the #1 source of EEOC Harassment Claims of any single industry segment. (See Buzzfeed analysis of EEOC data from 1995-2016)
- The EEOC identifies tipped work as a specific factor that may put a worker at higher risk of harassment.
  - “For example, a tipped worker may feel compelled to tolerate inappropriate and harassing behavior rather than suffer the financial loss of a good tip…[I]n order to ensure customer happiness, management may, consciously or subconsciously, tolerate harassing behavior rather than intervene on the workers' behalf.”

MN has protected tipped workers for over 30 years.

- In 1984, workers fought to abolish the tip penalty and won. Since then, tipped workers have been paid One Fair Wage in tipped-industries across MN.
- We are protected from tip penalty-related wage theft.
- MN has lower poverty rates for tipped workers compared to our neighboring states with subminimum wage policies.

Tipped Workers and Poverty



American Community Survey (2012-2015). Ruggles, Steven, Alexander J. Trent, Genadek Katie, Goeken Ronald, Schroeder Matthew B., and Soebek Matthew, Integrated Public Use Microdata Series: Version 5.0 [Machine-readable database], (Minneapolis: Minnesota Population Center, 2010).

Support Small Businesses and Their Workers

It is not either/or.

Programs that either exist or have precedence:

- Technical support (access to business consultants and financial planners)
- Low interest loans/grants
- Healthcare pools (alleviates healthcare costs and increases access to healthcare for workers)
- Payroll tax assistance

Protect Tipped Workers

- Safeguard wages for tipped workers in St. Paul
- Do not increase dependence on tips as income
- Service Charge accountability built into policy

Tipped Workers
can’t afford a tip penalty

One Fair Wage

From: Sam Peterson
To: Angelica Klebsch
Cc: Eli Jonathan Edleson-Stein
Subject: Information for Thursday
Date: Tuesday, July 10, 2018 8:18:15 PM

Angelica, Eli,

I edited my previous email to be a bit more concise. I will cut and paste it below. If you would like to use this as a print out for Thursday instead of my previous email.

****

My average serving/bartending shift in June, 2018 saw a server sell $900 and my average serving/bar shift in June was 6 hours long.

Based upon the credit card receipts that had tips on them in June, my servers average almost exactly 19% in tips on those sales. An average shift would see a server make $171 over a 6 hour period.

My servers generally share about 20% of their tips to the back of house and support staff. My average server walks home with $137 in tips over a 6 hour shift. $137 over a 6 hour shift is almost $23/hr + $9.65/hr for a total of $32.65/hr.

When looking at an increase in labor, it can be offset in one of two ways. The first is to reduce costs and the second is to increase revenue. When it comes to increasing revenue, sit down restaurants have two basic ways of generating extra revenue. The first is to raise prices and the second is to add a service charge to each tab.

If my restaurant adds a 5% service charge on all my tabs and my average customer starts tipping 14% instead of 19%, what would the numbers for my servers be with a 5% service charge on all tabs? That $900 in sales with 14% tips would be $126. If the server still tips out 20% to the support staff and back of house they would then walk home with almost exactly $100 in tips. Those $100 in tips over a 6 hour shift is $16.67/hr + $15/hr wage so my servers should still make $31.67/hr under this scenario which is only $1/hr less than without a 5% service charge.

What if I added a 10% service charge on all my tabs and my customers started tipping 9% instead of 19%? That $900 in sales with 9% in tips would come to $81 in tips. If the server tips out 20% of that to the back of house and support staff the server would walk with $65. Over a 6 hour shift that is $11/hr + $15/hr wage for a total of $26/hr.

If restaurants start instituting a service charge, I expect 5% to be about the lowest we would see. I also wouldn't expect to see many service charges over 10%. As you can see from this breakdown, even in an extreme environment where a restaurant adds a 10% service fee, the servers are still making a living wage. My restaurant is not going to close and my servers are still going to have jobs.

My personal preferred choice would be to raise my prices as opposed to adding a service charge to all my tabs. The only difference between each of these options is really just customer perception. Either way, once a $15/hr minimum wage is enacted, people ARE going to see a price increase in their restaurant tabs. If people tip a little bit less, that will make up for the increased cost of eating out. Under this scenario the "out of pocket" money for my customer will not change.

I completely understand why people would not want their wage to go from $32.65/hr down to $26/hr. I understand that servers and bartenders have anxiety about this. Is the restaurant industry going to see some changes? Yes, we will. Are servers and restaurants going to have to adapt to a new way of doing things? Yes, absolutely we are all going to have to adapt the way we run our businesses. But the argument that a lack of a sub minimum wage will collapse the restaurant industry or that servers are all going to lose their job is just not true.

****

Thanks
Sam

Sam Peterson
Owner

Kyatchi Mpls
3758 Nicollet Ave
Minneapolis, MN 55409
612.236.4429

Kyatchi St Paul
308 E Prince St #140
St Paul, MN 55101

POST WHERE EMPLOYEES CAN READ EASILY – VIOLATORS SUBJECT TO PENALTIES

SANTA MONICA'S MINIMUM WAGE

OFFICIAL NOTICE

Santa Monica Service Charge Law

Effective Date: July 1, 2016

Starting **July 1, 2016**, employers using service charges must abide by regulations in the Minimum Wage Ordinance, Municipal Code Section 4.62.040. This means that employers must:

- Pay all revenue collected as a **service charge** to the workers who generally performed the services for which the charge was collected (can include back-of-house)
- Pay any revenue collected as a **health-care related surcharge** to the employee through (i) depositing into segregated accounts controlled by the employee or (ii) paying to the employee in wages
- Inform employees of service charge distribution
- Keep records of service charge distribution

Employers may pay service charge revenue to employees whose primary role is not supervisory or managerial. Employers must also provide clear and conspicuous notice to customers of any service charges and their use.

Employers will distribute amounts collected for hotel banquets or hotel-catered meetings, hotel room service, or hotel porterage service to the employees directly providing the service. Employers that had an existing practice of pooling and distributing service charges prior to the Minimum Wage effective date may continue with this practice.

Under the Ordinance, employees who assert their rights to receive service charge revenue are protected from retaliation. Employees may file a civil lawsuit against their employers for any violation of the service charge provisions. The City can investigate possible violations, and can enforce the service charge requirements. Available remedies include but are not limited to reinstatement of employees, payment of service charges unlawfully withheld, and monetary penalties.

FOR MORE INFORMATION, PLEASE CONTACT THE CITY OF SANTA MONICA:

(310) 458-8281 • minimum.wage@smgov.net • www.smgov.net/minimumwage

HONEST WORK. FAIR PAY.
Santa Monica's Minimum Wage

Columbia Journalism Review - One conservative group's successful infiltration of the media

In editorials and juicy quotes to news organizations across the nation, restaurant workers are speaking up *against* paying tipped workers a minimum wage. Six restaurant workers, specifically.

This group is the all-white board of an opaque 501(c)4 called the Restaurant Workers of America (RWA), funded by restaurant owners, that regularly appears with restaurant industry trade groups and Republican politicians to praise the exception to the minimum wage that is made for tipped waiters and bartenders. Its most prominent spokespeople are tipped waitstaff who publicly support the interests of restaurant owners. Though the group's members describe themselves as liberal and anti-Trump in various quotes and on Twitter, one of its members is actively running as a conservative independent for a position in the Maine House of Representatives—a fact noted nowhere in publications quoting her.

The group's board members have been active at every level of coverage in more than one recent push to raise the minimum wage for tipped workers, which appears to be the RWA's main issue (though they have also said that well-documented claims of pervasive sexual harassment in the industry are overblown). They author op-eds where they are identified as part of a political group in one place, are quoted simply as "tipped waitstaff" in other places, and have managed to score at least one high-level profile, in BuzzFeed. Identification of the RWA board as an organized political group is scattershot; examination of its funding structure and support base is nonexistent, with the exception of one article by Rebecca McCarthy in The Outline.

Since its inception in December 2017, Google shows the group appearing in more than 70 news articles and opinion pieces published by outlets from *The Washington Post* to *The New York Times* to *Reason*. CJR could not find an article quoting any RWA member that identifies them as members of a restaurant-owner funded group, though the information is readily available through its website. (RWA offers three levels of membership: one for large restaurants at $500, one for small restaurants at $100, and one for restaurant employees, who may join for free.)

'Kathy Hollinger [head of the district's restaurant trade association] wrote me a check,' explained RWA board member Ryan Aston.

The Restaurant Workers of America's press offensive came in advance of a referendum in Washington, DC, on ballot initiative 77, which would repeal the "tip credit," a rule allowing restaurants to pay staff less than minimum wage so long as they make up the difference in tips. The ballot initiative passed Tuesday, but there are more referenda and bills on the issue to come. Beyond the ongoing issue of wage law, the way reporters and editors have approached voices from what could be described as an "astroturf"—fake grassroots—group holds lessons for journalists covering all kinds of activists, who, noble or not, have explicit political aims.

Coverage of tipping legislation is difficult not least because it addresses multiple industries, all of them local, and because the stakes for those in poverty are so high. Employers use the minimum-wage exception to justify paying employees (wait staff, but also parking attendants and delivery workers) less, and sometimes steal from them, as a matter of course: In a compliance sweep of about 9,000 restaurants in 2011 to 2012, more than 83 percent of restaurants were found to have violated the tip credit, the Department of Labor told the Economic Policy Institute. In that sweep alone, more than 1,700 instances of wage theft resulted in some $5.5 million in backpay. Thus, opponents of the law working in restaurants and speaking to reporters tended to staff DC's flourishing independent restaurant scene, and workers at the district's chain restaurants were been conspicuously absent from coverage.

The name “Restaurant Workers of America” follows the pattern of a union (see, for instance, Communication Workers of America), and it is easy to scan their promotional material and decide that they simply represent one side of a complicated debate between tipped workers. Even The New York Times has mentioned them in passing. But it’s not clear that the group has any broad support from tipped workers, besides the obvious spokespeople. The group’s founder, Joshua Chaisson, said he did not “have the numbers in front of me” a phone interview.

As reporters know all too well, the pressure to file regularly, especially on a beat arousing sudden national interest, can trump the need to vet every individual source. But that need is there, as the RWA’s frequent quotation demonstrates. Coverage of tipping legislation has been cast regularly as a vigorous debate among servers, in dozens of cases with contributions from the RWA. With ballot initiatives looming, the pressure on reporters is that much greater, and activists can be relied on to exploit harried reporters. But the responsibility remains.

Even when RWA is identified in stories, its mission statement is seemingly taken at face value. Ryan Aston, an RWA board member and bartender at a DC restaurant called The Hamilton, was identified as part of the group in a piece bylined just a few weeks after the RWA’s inception: an op-ed in The Washington Post in January titled, “I’m your bartender. I don’t want a raise,” and is quoted extensively in the BuzzFeed feature, which exclusively quotes RWA members as the no-on-77 side. Aston also shows up in a Washington City Paper article on the anti-wage-increase pop-up bar he opened with two other tipped workers—one who tweets with the #RWA hashtag, and another who is the owner of something called
“Barsultants.” Claudia Koerner, who authored the BuzzFeed article, tells CJR she reached out to Chaisson directly but is unable to give further comment before this story’s publication.

Aston is not identified as a board member of the RWA in two Washington City Paper articles that quote him; the author, Laura Hayes, tells CJR she was aware of Aston’s RWA board affiliation but that he was working with other tipped workers, whom she has sought out in an effort to learn how the base-wage increase would affect the local industry. “I have focused my coverage almost entirely on talking to tipped workers because they have the most to gain or lose through this initiative,” she says.

And the group has direct ties to organizations more clearly backed by large, national lobbyists that represent the restaurant chains for whom this legislation represents a seismic shift. In May, Save Our Tips, a campaign backed by the National Restaurant Association, paid Aston $800 for “advertising”—Aston says he was being reimbursed for buttons he had purchased for an event the group was holding that he was helping to organize. (Save Our Tips, The Intercept reported last week, is managed by the Lincoln Strategy Group, which was paid $600,000 in 2016 by the Trump campaign, and is managed by a GOP consultant and former head of the Arizona Christian Coalition, Nathaniel Sproul. Sproul has made headlines for suspected voter fraud.) “Kathy Hollinger [head of the district’s restaurant trade association] wrote me a check,” he explains. Aston declined to tell CJR who put him in touch with The Washington Post, but Chaisson maintains that the group does not use a PR agency. CJR has contacted two editors at the Post’s opinion section requesting comment.

The other board members are nearly as ubiquitous as Chaisson and Aston. Wendyll Caisse, an RWA board member and a restaurant owner, is quoted in a Crain’s article and has an op-ed in the conservative Inside Sources.

Carrie Smith, who is running for Maine state house with financial help from Caisse, co-wrote an op-ed in the Portland Press-Herald with Chaisson. Greg Kesich, the Press-Herald’s opinion page editor, said she did not disclose the fact that she was running for office. A fifth board member, Jennifer Schellenberg, has quotes in the the Twin Cities Pioneer Press and an opinion piece in The Washington Examiner. The last, Simone Barrone, co-wrote an op-ed in the Everett Herald and has told BuzzFeed she found women’s accounts of begrudgingly flirting for higher tips “demeaning.”Chaisson described himself to BuzzFeed, which exclusively quoted RWA members in its piece on the “debate,” as “a very proud, very, very blue Democrat,” which is an odd bona fide for someone with quotes to Townhall.com and Ben Shapiro’s The Daily Wire.

Not to mention his enthusiastic support of chain restaurants. “Our opposition has painted corporate restaurants as the devil’s brothel and I refuse to buy into that characterization,” Chaisson tells CJR. He credits the group’s success with the media primarily to elbow grease, and to a need for sources. “There aren’t any other major organizations [of servers] who are pushing to save the tip credit,” he observes.

Sam Thielman is the Tow editor at *Columbia Journalism Review*.

CJR

U.S. Equal Employment Opportunity Commission

Select Task Force on the Study of Harassment in the Workplace

Report of Co-Chairs Chai R. Feldblum & Victoria A. Lipnic

June 2016

Contents

PREFACE

Thirty years ago, the U.S. Supreme Court recognized claims for sexual harassment as a form of discrimination based on sex under Title VII of the Civil Rights Act of 1964. In the years that followed, courts have filled in the legal landscape even further.

Six years ago, when we came to EEOC as commissioners, we were struck by how many cases of sexual harassment EEOC continues to deal with every year. What was further striking to us were the number of complaints of harassment on every other basis protected under equal employment opportunity laws the Commission deals with today. We are deeply troubled by what we have seen during our tenure on the Commission.

ground for harassment.

When the superstar misbehaves, employers may perceive themselves in a quandary. They may be tempted to ignore the misconduct because, the thinking goes, losing the superstar would be too costly. They may wager that the likelihood or cost of a complaint of misbehavior is relatively low and outweighed by the superstar's productivity. Some employers may even use this type of rationale to cover or retaliate for a harasser.

Employers should avoid the trap of binary thinking that weighs the productivity of a harasser *solely* against the costs of his or her being reported. As a recent Harvard Business School study found, the profit consequences of so-called "toxic workers" - *specifically including* those who are "top performers" - is a net negative.[117] Analyzing data on 11 global companies and 58,542 hourly workers, the researchers found that roughly one in 20 workers was fired for egregious company policy violations, such as sexual harassment.[118] Avoiding these toxic workers, they found, can save a company more than twice as much as the increased output generated by a top performer.[119] As a result, the study urged employers to "consider toxic and productivity outcomes together rather than relying on productivity alone as the criterion of a good hire."[120] No matter who the harasser is, the negative effects of harassment can cause serious damage to a business. Indeed, the reputational costs alone can have serious consequences, particularly where it is revealed that managers for years "looked the other way" at a so-called "superstar" harasser.[121]

E. RISK FACTORS FOR HARASSMENT

Our efforts over the past year with the Select Task Force focused broadly on unwelcome conduct in the workplace based on characteristics protected under anti-discrimination statutes. We wanted to find ways to help employers and employees prevent such conduct before it rose to the level of illegal harassment.

Several members of the Select Task Force suggested that we identify elements in a workplace that might put a workplace more at risk for harassment. The thought was that if we could identify "risk factors," that might give employers a roadmap for taking proactive measures to reduce harassment in their workplaces. Indeed, as we delved into the question, we found that academic research and practical knowledge gained on the ground by investigators, trainers, diversity leaders, and human resources personnel have identified a number of such risk factors.

Some of the findings around risk factors (both from academic work and practical work) look at the characteristics of those who might be more prone to engage in harassment or to be the victims of harassment. We decided to focus instead on a number of environmental risk factors - organizational factors or conditions that may increase the likelihood of harassment. Indeed, numerous studies have shown that organizational conditions are the most powerful predictors of whether harassment will happen.[122]

Most if not every workplace will contain at least some of the risk factors we describe below. In that light, to be clear, we note that the existence of risk factors in a workplace does not mean that harassment is occurring in that workplace. Rather, the presence of one or more risk factors suggests that there may be fertile ground for harassment to occur, and that an employer may wish to pay extra attention in these situations, or at the very least be cognizant that certain risk factors may exist. Finally, we stress that the list below is neither exclusive nor exhaustive, but rather a number of factors we felt were readily identifiable.

Homogenous Workforces

Perhaps not surprisingly, harassment is more likely to occur where there is a lack of diversity in the workplace.[123] For example, sexual harassment of women is more likely to occur in workplaces that have primarily male employees, and racial/ethnic harassment is more likely to occur where one race or ethnicity is predominant.[124] Workers with different demographic backgrounds than the majority of the workforce can feel isolated and may actually be, or at least appear to be, vulnerable to pressure from others.[125] They may speak a different language, observe different customs, or simply interact in ways different from the majority. Conversely, workers in the majority might feel threatened by those they perceive as "different" or "other." They might be concerned that their jobs are at risk or that the culture of the workplace might change, or they may simply be uncomfortable around others who are not like them.[126]

Workplaces Where Some Workers Do Not Conform to Workplace Norms

Harassment is more likely to occur where a minority of workers does not conform to workplace norms based on societal stereotypes.[127] Such workers might include, for example, a "feminine" acting man in a predominantly male work environment that includes crude language and sexual banter, or a woman who challenges gender norms by being "tough enough" to do a job in a traditionally male-dominated environment.[128] Similarly, a worker with a manifest disability may engender harassment or ridicule for being perceived as "different," as might a worker in a "rough and tumble" environment who for any number of reasons chooses not to participate in "raunchy" banter.

Cultural and Language Differences in the Workplace

It might seem ironic (given the first risk factor of homogenous workforces) that workplaces that are extremely diverse also pose a risk factor for harassment.[129] This has been found to be the case especially when there has been a recent influx of individuals with different cultures or nationalities into a workplace, or where a workplace contains significant "blocs" of workers from different cultures.[130] Alternately, different cultural backgrounds may cause employees to be less aware of laws and workplace norms, which can affect both their behavior and their ability to recognize prohibited conduct.[131] Workers who do not speak English may not know their rights, and may be more subject to exploitation. The Select Task Force heard testimony from one expert who discussed how language and linguistic characteristics can play a role in cases of harassment or discrimination.[132]

Coarsened Social Discourse Outside the Workplace

In both homogenous and diverse workforces, events and coarse social discourse that happen outside the workplace may make harassment inside a workplace more likely or perceived as more acceptable. For example, after the 9/11 attacks, there was a noted increase in workplace harassment based on religion and national origin. Thus, events outside a workplace may pose a risk factor that employers need to consider and proactively address, as appropriate.

Workforces with Many Young Workers

Workplaces with many teenagers and young adults may raise the risk for harassment.[133] Workers in their first or second jobs may be less aware of laws and workplace norms - *i.e.,* what is and is not appropriate behavior in the workplace.[134] Young workers who engage in harassment may lack the maturity to understand or care about consequences.[135] Young workers who are the targets of harassment may lack the self-confidence to resist unwelcome overtures or challenge conduct that makes them uncomfortable.[136] Finally, young workers who are in unskilled or precarious jobs may be more susceptible to being taken advantage of by coworkers or superiors, particularly those who may be older and more established in their positions.

Workplaces with "High Value" Employees

As noted in the discussion regarding the business case, there are workforces in which some employees are perceived to be particularly valuable to the employer - the "rainmaking" partner or prized, grant-winning researcher.[137] These workplaces provide opportunities for harassment, since senior management may be reluctant to challenge the behavior of their high value employees, and the high value employees, themselves, may believe that the general rules of the workplace do not apply to them.[138] In addition, the behavior of such individuals may go on outside the view of anyone with the authority to stop it.

Workplaces with Significant Power Disparities

The reality is that there are significant power disparities between different groups of workers in most workplaces. But such significant power disparities can be a risk factor.[139] For example, workplaces where there are executives and administrative support staff, factories where there are plant managers and assembly line workers, and all branches of the military pose opportunities for harassment.[140]

Low-status workers may be particularly susceptible to harassment, as high-status workers may feel emboldened to exploit them. Low-status workers may be less likely to understand internal complaint channels, and may also be particularly concerned about the ramifications of reporting harassment (*e.g.*, retaliation or job loss).[141] Undocumented workers may be especially vulnerable to exploitation or the fear of retaliation.[142] Finally, research shows that when workplace power disparities are gendered (*e.g.*, most of the support staff are women and most of the executives are men), more harassment may occur.[143]

Workplaces that Rely on Customer Service or Client Satisfaction

Few employers would say that their business does *not* rely on excellent customer service and client satisfaction. As a risk factor, we are specifically speaking about those workplaces where an employee's compensation may be directly tied to customer satisfaction or client service. For example, a tipped worker may feel compelled to tolerate inappropriate and harassing behavior rather than suffer the financial loss of a good tip.[144] A commissioned salesperson may stay silent in the face of harassment so as to ensure he or she makes the sale. Finally, in order to ensure customer happiness, management may, consciously or subconsciously, tolerate harassing behavior rather than intervene on the workers' behalf.[145]

Workplaces Where Work is Monotonous or Consists of Low-Intensity Tasks

We heard that workplaces where workers are engaged in monotonous or low-intensity tasks may be more likely to see workplace harassment. In jobs where workers are not actively engaged or have "time on their hands," harassing or bullying behavior may become a way to vent frustration or avoid boredom.[146]

Isolated Workspaces

Harassment is also more likely to occur in isolated workspaces, where the workers are physically isolated or have few opportunities to work with others.[147] Harassers have easy access to such individuals, and there generally are no witnesses to the harassment.[148] For example, janitors working alone on the nightshift, housekeepers working in individual hotel rooms, and agricultural workers in the fields are all particularly vulnerable to sexual harassment and assault.[149]

Workplace Cultures that Tolerate or Encourage Alcohol Consumption

Alcohol reduces social inhibitions and impairs judgment. Not surprisingly, then, workplace cultures that tolerate alcohol consumption during and around work hours provide a greater opportunity for harassment.[150] Workplaces where alcohol is consumed by clients or customers are also at higher risk of harassment.[151] In some workplaces, alcohol consumption may become an issue once or twice a year - holiday parties, for example. In other workplaces, particularly those where social interaction or client entertainment is a central component of the job (sales, for example), alcohol use may be more ritualized and thus present more of a potential risk factor.

Decentralized Workplaces

Decentralized workplaces, marked by limited communication between organizational levels, may foster a climate in which harassment may go unchecked.[152] Such workplaces include retail stores, chain restaurants, or distribution centers - those enterprises where corporate offices are far removed physically and/or organizationally from front-line employees or first-line supervisors, or representatives of senior management are not present. In such workplaces, some managers may feel (or may actually be) unaccountable for their behavior and may act outside the bounds of workplace rules. Others may simply be unaware of how to address workplace harassment issues, or for a variety of reasons may choose not to "call headquarters" for direction.[153]

***

We close this section by observing once more that, obviously, every workplace has some of these risk factors, and some workplaces have many of them. But the instinct of our Select Task Force members that we should devote time and resources to exploring and categorizing possible risk factors is borne out by what we have learned. The objective of identifying risk factors is not to suggest that having these risk factors will necessarily result in harassment in the workplace. A single risk factor may make a particular workplace more susceptible to harassment; more broadly, industries with numerous risk factors may be at greater risk of harassment in their workplaces and greater risk of the harassment not being identified and remedied.

The objective of identifying and describing these risk factors is to provide a roadmap for employers that wish to take proactive actions to ensure that harassment will not happen in their workplaces. We stress that employers need to maintain "situational awareness" - an employer noting surprise that women were being sexually assaulted on the night shift when they worked in isolation and their schedules were controlled by men is cold comfort to the victims of these assaults. The next Part of our report describes a number of actions that employers can take to prevent harassment, including an assessment of these risk factors. In addition, Appendix C includes a chart with suggestions for addressing each of these risk factors in a proactive manner.

PART THREE

Working Economics Blog

Posted May 31, 2018 at 4:40 pm by **Elise Gould** and **David Cooper**

Seven facts about tipped workers and the tipped minimum wage

As debate continues on a referendum to raise the tipped minimum wage in Washington, D.C., to the minimum wage for nearly all other workers, we wanted to take a few minutes to set the record straight on the facts about tipped worker wages and incomes. Currently, eight states do not have differential treatments of the tipped workforce in terms of the minimum wage.[1] Throughout this post, these will be referred to as "equal treatment" states. To be clear, tipped workers in these equal treatment states receive the full, regular state minimum wage *plus* tips.

Over the last several years, there has been a great deal of research about the minimum wage and tipped restaurant workers, in particular, and we are going to draw on some of that research to make several key points: 1. In the District of Columbia, women, African American, and Hispanic workers are disproportionately minimum wage workers, including tipped minimum wage workers; 2. Maintaining a separate, lower minimum wage for tipped workers perpetuates racial and gender inequities; 3. In states that have a lower tipped minimum wage, tipped workers have worse economic outcomes and higher poverty rates than their counterparts in equal treatment states; 4. Tipped work is overwhelmingly low-wage work, even in D.C.; 5. Wage theft is particularly acute in food and drink service, and restaurants across the country have been found to be in violation of wage and hour laws; 6. Waitstaff have higher take-home pay in equal treatment states than in D.C.; and 7. The restaurant industry thrives in equal treatment states.

Here, we take a closer look at each point:

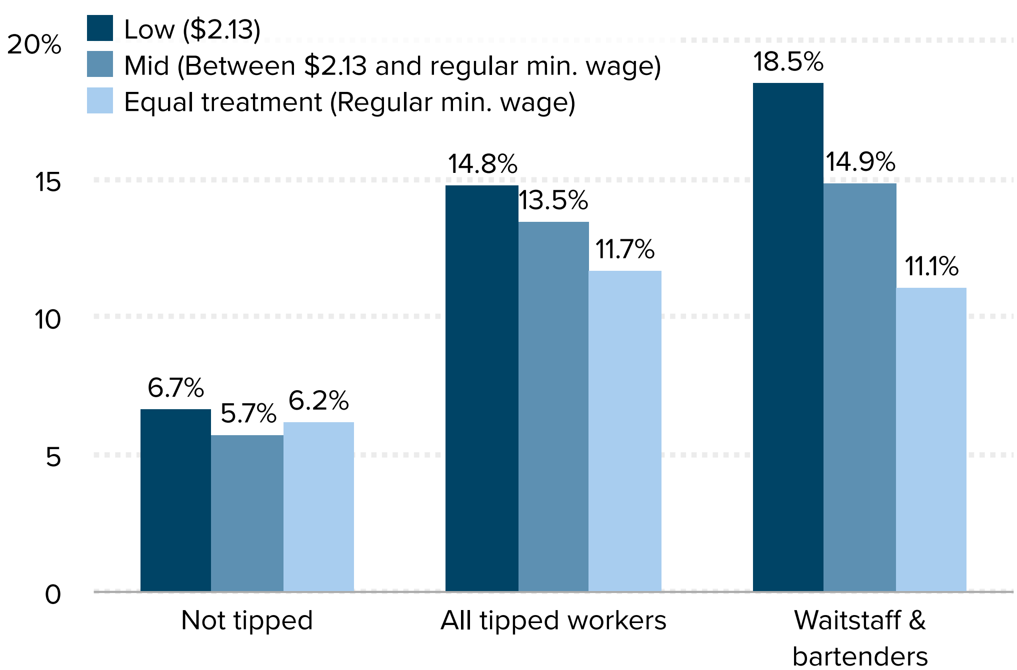
1. Women, African Americans, and Hispanic workers **have disproportionately benefited from minimum wage increases in Washington, D.C.** Furthermore, contrary to popular opinion, the vast majority of minimum-wage earners are not teenagers or college students working part-time jobs.

2. Research indicates that having a separate, lower minimum wage for tipped workers perpetuates racial and gender inequities, and results in worse economic outcomes for tipped workers. Forcing service workers to rely on tips for their wages creates tremendous instability in income flows, making it more difficult to budget or absorb financial shocks. Furthermore, research has also shown that **the practice of tipping is often discriminatory**, with white service workers receiving larger tips than black service workers for the same quality of service.

3. The clearest indicator of the damage caused by this separate wage floor for tipped workers is the differences in poverty rates for tipped workers depending on their state's tipped minimum wage policy. As shown in Figure A, in the states where tipped workers are paid the federal tipped minimum wage of $2.13 per hour (just slightly less than the district's $2.77 at that time), 18.5 percent of waiters, waitresses, and bartenders are in poverty. Yet in the states where they are paid the regular minimum wage before tips (equal treatment states), the poverty rate for waitstaff and bartenders is only 11.1 percent. Importantly, the poverty rates for non-tipped workers are very similar regardless of states' tipped minimum wage level. This strongly indicates that the lower tipped minimum wage is driving these differences in outcomes for tipped workers.

FIGURE A

Poverty rates of tipped workers, non-tipped workers, and waitstaff/bartenders by state tipped minimum wage level



Source: EPI analysis of Current Population Survey Annual Social and Economic Supplement microdata, 2013-2015

4. Tipped work is overwhelmingly low-wage work, even in Washington, D.C. Some tipped workers at high-end restaurants do well, but they are the exception, not the norm. The median hourly wage of waitstaff in the district in May 2017 **was only $11.86**, including tips. At that time, D.C.'s minimum wage was $11.50 per hour. In other words, the typical D.C. server made a mere 36 cents above the minimum wage. Proponents of maintaining a lower tipped minimum wage may note that the average hourly wage of waitstaff in D.C. at that same time was $17.48, but this average is skewed by the subset of servers in high-end restaurants that do exceptionally well. The fact that the average is so far from the median wage is indicative of significant wage inequality among district waitstaff.

5. Wage theft is particularly acute in food and drink service, and restaurants across the country have been found to be in violation of wage and hour laws. It is true that the law requires restaurants to ensure that tipped workers receive at least the regular minimum wage when their tips are included, but the reality is that huge numbers of restaurants—helped by too-weak enforcement efforts—ignore these requirements. In investigations of over 9,000 restaurants, the U.S. Department of Labor (DOL) found that 84 percent of investigated restaurants were in violation of wage and hour laws, including nearly 1,200 violations of the requirement to bring tipped workers' wages up to the minimum wage. Among the restaurants that were investigated, **tipped workers were cheated out of nearly $5.5 million**. Workers in the food and drink service industries **are more likely to suffer minimum wage violations than workers in other industries**.

6. The data show that tipped workers' median hourly pay (counting both base wages and tips) is significantly higher in equal treatment states. Waiters, waitresses, and bartenders in these states **earn 17 percent more per hour (including both tips and base pay) than their counterparts in states where tipped workers receive the federal tipped minimum wage of $2.13 per hour**. There is no evidence that net hourly earnings go down, such as from customers tipping less, when tipped workers are paid the regular minimum wage.

Looking at data specific to the District of Columbia shows a clear advantage to waitstaff in equal treatment states. In California, when the minimum wage was $10.50—8.7 percent less than D.C.'s $11.50—**waitstaff there still earned 2 percent more** per hour than waitstaff in D.C. In San Francisco, when the minimum wage was $13.00—13 percent higher than D.C.'s $11.50—**waitstaff in San Francisco earned 21 percent more** than waitstaff in D.C. In Washington state, when the minimum wage was $11.00—4.3 percent less than the minimum wage in D.C.—**waitstaff there still earned 5.1 percent more** than their counterparts in D.C. Fears of lower wages from equal treatment are unfounded for the large majority of waitstaff.

7. The restaurant industry thrives in equal treatment states. In one of the most comprehensive studies on the minimum wage, researchers aggregated the results of over four decades of studies on the employment effects of the minimum wage. They

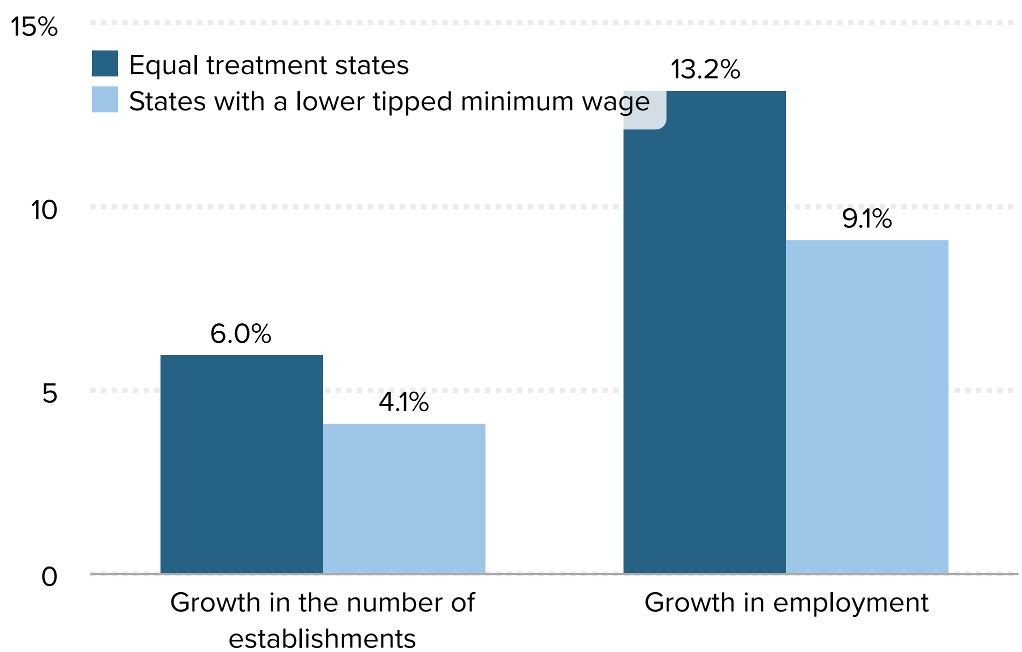
concluded that **there is "little or no significant impact of minimum wage increases on employment."** Affected businesses are **typically able to absorb additional labor costs** through increases in productivity, reductions in turnover costs, compressing internal wage ladders, and modest price increases. Furthermore, research specific to the tipped minimum wage also **found no significant effect on employment.**

According to the Quarterly Census of Employment and Wages, full-service restaurants in equal treatment states saw stronger growth both in terms of number of establishments and number of jobs compared to states with a separate, lower minimum wage for tipped workers (Figure B). Between 2011 and 2014, equal treatment states saw 6.0 percent growth in the number of establishments compared to 4.1 percent growth in states with separate, lower tipped minimum wages. Likewise, employment grew 13.2 percent in equal treatment states compared to 9.1 percent in other states.

Furthermore, higher minimum wages mean better working and living conditions for numerous workers in the region, and **it will put more money in the hands of consumers likely to spend** in area businesses.

FIGURE B

Growth in the number of full-service restaurant establishments and employment by type of tipped wage, 2011–2014



Note: Equal treatment states are states that have the same minimum wage for all workers. Equal treatment states include Alaska, California, Hawaii, Minnesota, Montana, Nevada, Oregon, and Washington.

Source: Quarterly Census of Employment and Wages (2011-2014)

Economic
Policy
Institute

Employers steal billions from workers' paychecks each year

Survey data show millions of workers are paid less than the minimum wage, at significant cost to taxpayers and state economies

Report • By David Cooper and Teresa Kroeger • May 10, 2017

What this report finds: This report assesses the prevalence and magnitude of one form of wage theft—minimum wage violations (workers being paid at an effective hourly rate below the binding minimum wage)—in the 10 most populous U.S. states. We find that, in these states, 2.4 million workers lose $8 billion annually (an average of $3,300 per year for year-round workers) to minimum wage violations—nearly a quarter of their earned wages. This form of wage theft affects 17 percent of low-wage workers, with workers in all demographic categories being cheated out of pay.

Why it matters: Minimum wage violations, by definition, affect the lowest-wage workers—those who can least afford to lose earnings. This form of wage theft causes many families to fall below the poverty line, and it increases workers' reliance on public assistance, costing taxpayers money. Lost wages can hurt state and local economies, and it hurts other workers in affected industries by putting downward pressure on wages.

What can be done about it: Strengthen states' legal protections against wage theft, increase penalties for violators, bolster enforcement capacities, and protect workers from retaliation when violations are reported.

Introduction and key findings

For the past four decades, the majority of American workers have been shortchanged by economic policymaking that has suppressed the growth of hourly wages and prevented greater improvements in living standards. Achieving a secure, middle-class lifestyle has become increasingly difficult as hourly pay for most workers has either stagnated or declined. For millions of the country's lowest-paid workers, financial security is even more fleeting because of unscrupulous employers stealing a portion of their paychecks.

Wage theft, the practice of employers failing to pay workers the full wages to which they are legally entitled, is a widespread and deep-rooted problem that directly harms millions of U.S. workers each year. Employers refusing to pay promised wages, paying less than legally mandated minimums, failing to pay for all hours worked, or not paying overtime premiums deprives working people of billions of dollars annually. It also leaves hundreds of thousands of affected workers and their families in poverty. Wage theft does not just harm the workers and families who directly suffer exploitation; it also weakens the bargaining power of workers more broadly by putting downward pressure on hourly wages in affected industries and occupations. For many low-income families who suffer wage theft, the resulting loss of income forces them to rely more heavily on public assistance programs, unduly straining safety net programs and hamstringing efforts to reduce poverty.

Researchers have long known that measuring wage theft is challenging—it takes many forms, violations are not always recognized or reported, and suitable public data sources are limited. Yet in recent years, several studies have attempted to better quantify the harm caused by wage theft. This study adds to those efforts by using data from the Current Population Survey to assess the prevalence and magnitude of wage theft in the form of minimum wage violations—i.e., workers being paid at an effective hourly rate below the binding minimum wage. We look specifically at instances of such wage theft in the 10 most populous U.S. states: California, Florida, Georgia, Illinois, Michigan, New York, North Carolina, Ohio, Pennsylvania, and Texas. We limit our focus to these 10 states so that we can carefully account for each state's individual minimum wage policies and state-specific exemptions to wage and hour laws. Data for the 10 most populous states also provide adequate sample sizes to describe the severity of minimum wage violations and the affected populations within each state. Our findings provide a better assessment of minimum wage violations than previous studies that have only considered violations of the federal minimum wage. And, because the total workforce in these 10 states accounts for more than half of the entire U.S. workforce, our estimates shed new light on the scope of wage theft nationwide.

Key findings

We find that:

- In the 10 most populous states in the country, each year 2.4 million workers covered by state or federal minimum wage laws report being paid less than the applicable minimum wage in their state—approximately 17 percent of the eligible low-wage workforce.
- The total underpayment of wages to these workers amounts to over $8 billion annually. If the findings for these states are representative for the rest of the country, they suggest that the total wages stolen from workers due to minimum wage violations exceeds $15 billion each year.
- Workers suffering minimum wage violations are underpaid an average of $64 per week, nearly one-quarter of their weekly earnings. This means that a victim who works year-round is losing, on average, $3,300 per year and receiving only $10,500 in annual wages.

- Young workers, women, people of color, and immigrant workers are more likely than other workers to report being paid less than the minimum wage, but this is primarily because they are also more likely than other workers to be in low-wage jobs. In general, low-wage workers experience minimum wage violations at high rates across demographic categories. In fact, the majority of workers with reported wages below the minimum wage are over 25 and are native-born U.S. citizens, nearly half are white, more than a quarter have children, and just over half work full time.
- In the 10 most populous states, workers are most likely to be paid less than the minimum wage in Florida (7.3 percent), Ohio (5.5 percent), and New York (5.0 percent). However, the severity of underpayment is the worst in Pennsylvania and Texas, where the average victim of a minimum wage violation is cheated out of over 30 percent of earned pay.
- The poverty rate among workers paid less than the minimum wage in these 10 states is over 21 percent—three times the poverty rate for minimum-wage-eligible workers overall. Assuming no change in work hours, if these workers were paid the full wages to which they are entitled, less than 15 percent would be in poverty.

The next section provides background on the minimum wage, the problem of wage theft in general, and previous research on the topic of wage theft. The subsequent sections present our findings and analysis of minimum wage violations in the 10 most populous states. The final section discusses the economic and social consequences of wage theft and what can be done to fight it.

Background and previous research

The longstanding need to update the Fair Labor Standards Act

The Fair Labor Standards Act (FLSA), enacted in 1938, established the basic protections that have governed work in the United States since the Great Depression. With regard to pay, the FLSA “put a floor under wages and a ceiling over hours” through the creation of the federal minimum wage and provisions for overtime pay—i.e., a limit on the hours per week employees may work without receiving additional compensation (Roosevelt 1938). Over the years, the law has been periodically updated to strengthen protections or expand coverage to new classes of workers—such as the 1966 amendments to the FLSA that extended coverage to service sector and hospitality workers, and the Department of Labor’s extension of FLSA protections to home care workers in 2016.

Unfortunately, over the past several decades, updates to the FLSA have been inadequate or too infrequent to keep pace with changes in the economy and employment. For example, as explained in Cooper (2015), the failure of federal lawmakers to adequately raise the federal minimum wage has left millions of workers being paid 25 percent less in inflation-adjusted terms than their counterparts almost 50 years ago. Similarly, Eisenbrey

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REPORT

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TWENTY-THREE YEARS AND STILL WAITING FOR CHANGE

Why It's Time to Give Tipped Workers the Regular Minimum Wage

BY SYLVIA A. ALLEGRETTO AND DAVID COOPER

Introduction and executive summary

Last year marked the 75th anniversary of the Fair Labor Standards Act (FLSA), the legislation that established many of the basic labor protections workers enjoy today, such as a 40-hour workweek, overtime protection, and a national minimum wage. There have been periodic amendments to the FLSA over the years, but the 1966 amendments were especially significant. They extended protections to hotel, restaurant, and other service workers who had previously been excluded from the FLSA, but also introduced a new "subminimum wage" for workers who customarily and regularly receive tips.[1] Unlike temporary subminimum wages (such as those for students, youths, and workers in training), the "tip credit" provision afforded to employers uniquely established a permanent sub-wage for tipped workers, under the assumption that these workers' tips, when added to the sub-wage, would ensure that these workers' hourly earnings were at least equal to the regular minimum wage. The creation of the tip credit—the difference, paid for by customers' tips, between the regular minimum wage and the sub-wage for tipped workers—fundamentally changed the practice of tipping. Whereas tips had once been simply a token of gratitude from the served to the server, they became, at least in part, a subsidy from consumers to the employers of tipped workers. In other words, part of the employer wage bill is now paid by customers via their tips.

Today, this two-tiered wage system continues to exist, yet the subsidy to employers provided by customers in restaurants, salons, casinos, and other businesses that employ tipped workers is larger than it has ever been. At the federal level, it currently stands at $5.12 per hour, as employers are required to pay their tipped staff a "tipped minimum wage" of only $2.13 per hour, and the federal regular minimum wage is currently $7.25.[2] Remarkably, the federal tipped minimum wage has been stuck at $2.13 since 1991—a 23-year stretch, over which time inflation has lowered the purchasing power of the federal tipped minimum wage to its lowest point ever.

Proposed federal minimum-wage legislation, the Fair Minimum Wage Act of 2014—also known as the Harkin–Miller bill—would not only increase the federal regular minimum wage to $10.10, but for the first time in decades would also reconnect the subminimum wage for tipped workers back to the regular minimum wage by requiring the former be equal to 70 percent of the latter. This would be a strong step in the right direction; however, we present evidence that tipped workers would be better off still if we simply eliminated the tipped minimum wage, and paid these workers the full regular minimum wage.

Raising the wage floor for tipped workers is crucial for a number of reasons. Rising income inequality and the accompanying slowdown in improving American living standards over the past four decades has been driven by weak hourly wage growth, a problem that has been particularly acute for low-wage workers (Bivens et al. 2014). Tipped workers—whose wages typically fall in the bottom quartile of all U.S. wage earners, even after accounting for tips[3]—are a growing portion of the U.S. workforce. Employment in the full-service restaurant industry has grown over 85 percent since 1990, while overall private-sector employment grew by only 24 percent.[4] In fact, today more than one in 10 U.S. workers is employed in the leisure and hospitality sector, making labor policies for these industries all the more central to defining typical American work life.[5] Ensuring fair pay for tipped workers is also a women's issue. Women comprise two out of every three tipped workers; of the food servers and bartenders who make up over half of the tipped workforce, roughly 70 percent are women.

In their 2011 paper, Allegretto and Filion gave a historical account of the tipped-minimum-wage policy and brought much-needed attention to how the two-tiered wage system results in significantly different living standards for tipped versus non-tipped workers. For instance, tipped workers experience a poverty rate nearly twice that of other workers. The 2011 report, coupled with more recent publications from the White House (2014) and the Congressional Budget Office (2014), contradicts the notion that these workers' tips provide adequate levels of income and reasonable economic security.

Given recent policy interest in the minimum wage and greater attention to the lesser-known subminimum wage for tipped workers, this paper updates the 2011 report to reflect recent changes to state wage policies, and includes updated demographic and earnings profiles of tipped workers. We extend the 2011 analysis especially with regard to the family structure of tipped workers, noting important differences between men and women. We also provide new data on family income levels and participation in federal assistance programs among tipped workers, as well as measures of job quality in the food service industry.

Key findings include:

- The subminimum wage for tipped workers has remained at $2.13 since 1991. In 1996, it was decoupled from the regular minimum wage, such that the tipped wage remained at $2.13 even as the regular minimum wage was increased. At that time, the tipped minimum wage was equal to 50 percent of the regular minimum wage; today it is only equal to a record low 29.4 percent of the regular federal minimum wage of $7.25.
- Customers' tips pay the $5.12 difference between the federal tipped minimum wage and the federal regular minimum wage. Thus, customers provide a subsidy to employers of tipped workers worth more than twice the wage these employers are required to pay their tipped staff.
- The restaurant industry is an intense user of both minimum-wage and tipped-wage workers, with more than 60 percent of tipped workers employed in food service. The full-service restaurant sector has grown about 86 percent from 1990 to 2013, while overall growth in the private sector was up 24 percent—illustrating why it is increasingly important to raise wages for these workers.
- Tipped workers are predominantly women (66.6 percent) and disproportionately young; however, the majority are at least 25, and over one in four are at least 40 years of age.
- Tipped workers have a median wage (including tips) of $10.22, compared with $16.48 for all workers.
- While the poverty rate of non-tipped workers is 6.5 percent, tipped workers have a poverty rate of 12.8 percent. Tipped workers are thus nearly twice as likely to live in poverty as are non-tipped workers. Yet poverty rates are significantly lower for tipped workers in states where they receive the full regular minimum wage.
- Due to their low wages and higher poverty levels, about 46.0 percent of tipped workers and their families rely on public benefits, compared with 35.5 percent of non-tipped workers and their families. While it is a good thing that workers faced with challenging circumstances can turn to these programs for assistance, these programs were not designed to serve as a permanent wage subsidy or part of the business strategy for low-wage employers.
- Job quality, as measured by access to benefits, is far worse for tipped workers. Workers in the accommodation and food service industry—an industry with a high concentration of tipped workers—are offered paid leave (sick, holi-

day, and vacation leave), health insurance, and retirement benefits at rates far below those of private-sector workers overall.

- Paying tipped workers the regular minimum wage has had no discernable effect on leisure and hospitality employment growth in the seven states where tipped workers receive the full regular minimum wage. In fact, sector growth in these states has been stronger since 1995 than in the states where tipped workers are paid a subminimum wage.

History of the two-tiered wage floor system

The 1966 amendments to the Fair Labor Standards Act (FLSA) provided for a 50 percent "tip credit" for employers of tipped workers, allowing tipped workers' income from tips to count toward half the regular minimum hourly wage guaranteed to workers by the FLSA, with the newly established subminimum wage comprising the other half. The real (inflation-adjusted) value of the two wages is illustrated in **Figure A**. In real terms, both wages are lower today than in 1966. Over time, the federal tip credit provision—the difference, made up for by customers' tips, between the regular minimum wage and the tipped minimum wage—dropped to as low as 40 percent (1980–1989) while never exceeding half of the regular minimum wage prior to 1996. The roughly proportional relationship between the two wages changed when President Clinton signed into law the Minimum Wage Increase Act of 1996. The act eliminated the FLSA provision that required the tipped minimum wage remain a certain percentage of the full minimum wage, instead locking in the tipped minimum wage at $2.13 per hour. At the time of the bill's passage, the tip credit stood at 50 percent. In October of that year, as the bill's regular minimum-wage increase from $4.25 to $4.75 took effect, the $2.13 tipped minimum wage remained frozen—bringing the tip credit for employers above 50 percent (Whittaker 2006).

In fact, the 1996 law set the stage for an ever-increasing tip credit. When the federal minimum wage was raised in 2007, 2008, and 2009, the tipped minimum wage was left unchanged. Today, the tipped wage remains at $2.13, meaning it is equal to a record low 29.4 percent of the regular minimum wage of $7.25, while the employer tip credit ($5.12) is equal to 70.6 percent of the regular minimum wage. As such, the customer-provided subsidy afforded to employers ($5.12) is now more than twice the base wage ($2.13) employers are required to pay to workers.[6]

The change to the tip credit in 1996 effectively shifted responsibility for an increasing portion of tipped workers' wages from employers to customers; it greatly reduced employers' future wage bill by locking in a low base wage for tipped workers that would remain fixed, even as prices rose or the regular minimum wage was increased. Legally, employers of tipped workers are still required to ensure that the sum of tipped workers' base wages plus their tips is equal to at least the full regular minimum wage; however, as is discussed later in detail, enforcement of this requirement is fraught with problems, and evidence suggests that tipped workers are subject to high rates of wage theft.

State policies

The two-tiered wage system established under the 1966 amendments to the FLSA did not remain uniform across the country, as states have implemented an array of mixed rules for both the regular minimum wage and the subminimum wage for tipped workers that differ from federal policy.[7] The map in **Figure B** depicts state regular minimum-wage levels and tipped-minimum-wage levels as of January 1, 2014 (a summary of these data is also presented in the top panel of Table 1, which is introduced in the following section). Of the 50 states plus the District of Columbia, 29 follow

NATIONAL EMPLOYMENT LAW PROJECT

FACT SHEET | MAY 2018

St. Paul Should Reject a Lower Minimum Wage for Tipped Workers

Since Becoming a One Fair Wage State More Than 30 Years Ago, Minnesota Has Consistently Rejected a Lower Minimum Wage for Tipped Workers

- Thirty-four years ago, in 1984, Minnesota abolished its subminimum wage for tipped workers, becoming a "one fair wage" state where tipped workers receive the full minimum wage directly from their employers like other workers.[1] Since then, Minnesota has rejected all efforts to return to the unfair subminimum tipped wage system that allows employers to pay tipped workers just a portion of the full minimum wage as long as tipped workers earn enough in gratuities to put them at or above the full minimum wage.

- Since 1984, Minnesota legislators have fought and defeated various efforts to weaken the state's minimum wage law by establishing a lower minimum wage for tipped workers. For example, in 2008, when Governor Tim Pawlenty[2] blocked efforts to raise the state's minimum wage unless legislators also agreed to adopt a subminimum wage for tipped workers, legislators and advocates throughout the state held strong and rejected the governor's proposal.[3]

- Last year, **Minneapolis** rejected demands by the Minnesota Restaurant Association to exempt tipped workers from the city's new $15 minimum wage ordinance, citing the harm that a two-tier wage system would have on workers.[4]

- **A tip credit in St. Paul would be equally harmful to its tipped workers, placing them at a disadvantage relative to their Minneapolis counterparts.** As the name suggests, the Twin Cities share not only geographic proximity, but also similar economic trajectories and interests.[5] Since 2011, employment in the region's leisure and hospitality sector has steadily increased, with jobs growing at an average annual pace of 2.4 percent.[6] If this trend continues, tipped workers in both cities stand to experience similar benefits in terms of employment. However, if St. Paul were to adopt a tip credit, the base wage and earnings of Minneapolis tipped workers would soon likely surpass those of tipped workers in St. Paul.

- Despite claims to the contrary by powerful business interests, **the restaurant industry in Minnesota and the Twin Cities has thrived under a One Fair Wage system**,[7] and employers have found the system manageable. In fact, according to the latest estimates by the National Restaurant Association and the Minnesota Restaurant Association, restaurant sales in Minnesota reached $9.7 billion in 2017, and restaurant employment is expected to grow 8.9 percent by 2028.[8]

One Fair Wage Jurisdictions That Have Adopted a $15 Minimum Wage Have Also Preserved Their One Fair Wage Policies

- Other states and cities that—like Minnesota—have a One Fair Wage system have rejected the restaurant industry's attempts to condition a transition to a $15 minimum wage on lowering the wage for tipped workers.

- For example, last year, **Minneapolis** firmly rejected[9] a well-organized campaign by the Minnesota Restaurant Association[10] to exempt tipped workers from a $15 minimum wage in the city. Other local jurisdictions—such as **Los Angeles, San Francisco, and the many other cities and counties in California** that have adopted their own $15 minimum wage ordinances—are currently transitioning to higher wage floors without rolling back One Fair Wage in the process.[11] Similarly, the One Fair Wage states of **California and Oregon**—which adopted $15 and up-to-$14.75 minimum wage laws, respectively—are in the process of phasing in their higher minimum wages while also preserving wage parity for tipped and non-tipped workers.

- Contrary to claims by certain business groups, **the restaurant sectors of these One Fair Wage jurisdictions are thriving.** In **California**, for example, restaurants posted an estimated $82.2 billion in sales in 2017 and restaurant employment is expected to grow by 10 percent by 2028, according to projections by the National Restaurant Association.[12] In **Oregon**, restaurant sales in 2017 are estimated at $7.8 billion and restaurant employment is projected to increase by 12.9 percent over the next decade.[13] And in **San Francisco** in 2015, a year after the city began transitioning to a $15 minimum wage, the Golden Gate Restaurant Association reported that the restaurant industry was thriving,[14] with sales and employment growing faster than in 2014—the year San Francisco adopted a $15 minimum wage. Today, San Francisco's economy continues its positive trajectory, with the city's unemployment rate dropping to 2.6 percent in November 2017[15] (nearly 50 percent lower than its jobless rate three years earlier in 2014),[16] and restaurant employers voluntarily raising wages and benefits above the legal minimum in order to attract and retain talent.[17]

Contrary to Restaurant Industry Claims, the Majority of St. Paul's Tipped Workers Earn Very Low Wages

- Servers and bartenders comprise the majority (52 percent) of the approximately 84,650 tipped workers in the Minneapolis-St. Paul-Bloomington metropolitan area.[18] Of these, only a small share (the top 10 percent) earn total hourly wages (base wage plus tips) close to or more than $15, while the bottom 90 percent typically earn low wages, roughly in the $10 to $13 range (Table 1).

- According to the latest Bureau of Labor Statistics (BLS) data, between November 2014 and May 2017 (when the data was collected[19]), **the median hourly wage** for restaurant servers was **$10.29 including tips**, and the **average wage was $12.77**, also including tips.[20] Bartenders had similar hourly earnings. During this same period, the applicable minimum wage in Minnesota was between $8.00 and $9.50 per hour.[21]

- This means that in St. Paul and surrounding areas, **servers typically earn between $0.79 and $4.77 per hour in tips**—large enough to lift them above the minimum wage, but far below the types of high tips that the restaurant industry claims to be the norm (Table 2).

Table 1. Hourly wages for select tipped occupations in the St. Paul metropolitan area			
Occupation	**Average Wage**	**Median Wage**	**90th Percentile**
All occupations	*$26.94*	*$21.26*	*$49.22*
Waiters and waitresses	**$12.77**	**$10.29**	**$20.81**
Bartenders	**$11.46**	**$10.19**	**$14.90**
Hosts and hostesses, restaurant, lounge, and coffee shop	$11.50	$10.87	$14.81
Counter attendants, cafeteria, food concession, and coffee shop	$10.62	$9.94	$12.25
Dining room and cafeteria attendants and bartender helpers	$11.07	$10.19	$13.79
Food servers, non-restaurant	$13.21	$12.00	$18.50
Source: Bureau of Labor Statistics, May 2017 Occupational Employment and Wage Estimates.			

Table 2. Most restaurant servers in St. Paul earn only slightly above the minimum wage		
Effective Minimum Wage	**Server Wage**	**Difference**
$8.00 (November 2014)	$10.29 (median wage)	$2.29
	$12.77 (average wage)	**$4.77**
$9.50 (May 2017)	$10.29 (median wage)	**$0.79**
	$12.77 (average wage)	$3.27
Source: Bureau of Labor Statistics, May 2017 Occupational Employment and Wage Estimates; and U.S. Department of Labor, Changes in Basic Minimum Wages in Non-Farm Employment Under State Law: Selected Years 1968 to 2017.		

- **Alison Diffendal's story (Box 1) corroborates the BLS estimates.** Alison, who works as a server at Bakers Square in St. Paul, **often earns just $4 per hour in tips**, which is substantially less than the $8.50 to $15.50 in *hourly tips* that the restaurant industry claims to be typical for servers.[22] Her experience with tips illustrates the experience of many other servers in St. Paul who work for a restaurant chain.

- **A base hourly wage of $15, combined with tips, would allow many tipped workers in St. Paul to earn a better wage,** especially those without dependent children. According to the Economic Policy Institute, in the St. Paul metropolitan area, single adults *without* children needed to earn an annual income of $36,972 in 2017, just to attain a modest standard of living.[23] Assuming full-time, year-round work, this translates to **$17.78** per hour.[24] *For workers like Alison, who are raising one child*, the annual income needed to afford a decent apartment and other basics was $67,969 in 2017, or **$32.68** per hour.

- The BLS wage data suggests that **only a small number of servers—likely at high-end restaurants—earn total hourly wages (including tips) that are substantially above**

the minimum wage. As the data shows, the top 10 percent of servers earn total hourly wages over $20 an hour[25] (Table 1).

- The median hourly wage for restaurant servers in St. Paul is already 52 percent lower than the median hourly wage for all workers.[26] If St. Paul rolls back its One Fair Wage system, the wage gap between tipped workers and the average worker will widen further.

- Moreover, other tipped workers vulnerable to low pay would see lower wages if St. Paul abandons its One Fair Wage policy. Car wash workers, bellhops, parking lot attendants, and airport workers who assist elderly or disabled passengers earn very low wages[27] and average even smaller tips than restaurant workers.

Box 1: Alison Diffendal, tipped worker at Bakers Square in St. Paul

"I have worked as a server at the same chain restaurant for 15 years. I am a mother and I support myself and my eleven-year-old son. Our rent has increased three times over the past five years and the cost of living keeps going up. In fifteen years with the same restaurant, the only raises that I've ever gotten were when the minimum wage went up, meanwhile I have seen the benefits offered get worse and worse.

"I work hard and I like what I do and the people that I work with. I depend on my base wage and my tips and typically earn just around $14 per hour in total. That is just enough to cover our living expenses, with nothing left to save. My tips can fluctuate from $2 to $9 an hour. How much depends on when my coworkers are cut and how many servers are on, the time of day that I am working, the month of the year, and the weather on any given day. It can be a decent night if all of my coworkers are cut and I am the only one on, but if I am the first cut I can walk with few hourly wages and low tips; and the same is true for my coworkers.

"The winter months can be especially hard. When it is really cold outside or there is a lot of snow, my tips will stay low for longer periods of time. Even when the weather is good, it can be very unpredictable.

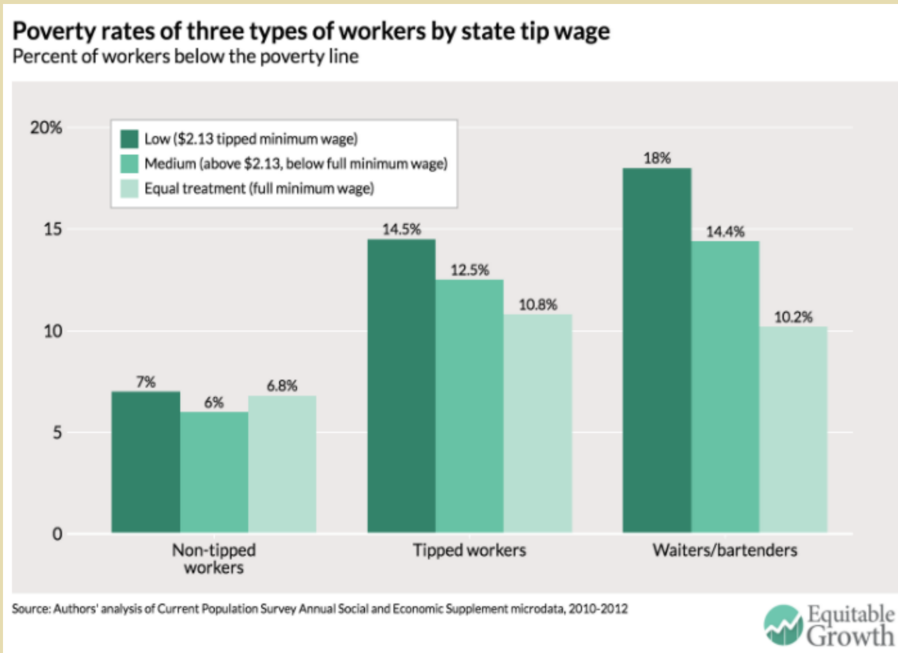
"I am a tipped worker and I deserve a $15 minimum wage with no tip penalty so that I can save for emergencies, so that I don't have to worry as much about a slow shift because of weather affecting my ability to pay rent, and so that I can support my family."

The Tipped Subminimum Wage and the Precariousness of Tipped Work Are Linked to Higher Rates of Poverty for Tipped Workers

- As a result of low pay and the precariousness of tipped occupations, **tipped workers are twice as likely to live in poverty as other workers.** According to analysis by the University of California and the Economic Policy Institute, while the poverty rate for non-tipped workers in the U.S. was 6.5 percent during the period analyzed (2010–2012), the poverty rate of tipped workers was 12.8 percent.[28] Restaurant servers and bartenders, who comprise the largest share of all tipped workers, had an even higher poverty rate of 14.9 percent.[29]

- **In states with a tip credit system, poverty among tipped workers is more prevalent.** According to data from 2010-2012, while the poverty rate for *non-tipped* workers ranged from 6.0 to 7.0 percent in states with a tipped subminimum wage, for *tipped* workers the poverty rate jumped to more than twice that rate—between 12.5 and 14.5 percent. Poverty among *servers and bartenders* in those states was even more alarming: 18.0 percent in states that follow the federal tipped rate of $2.13, and 14.4 percent in states with tipped subminimum wages between the federal tipped floor and the full minimum wage. *This means that in states with a tip credit, tipped workers are more than twice as likely to live in poverty.* In comparison, the poverty rates for tipped and non-tipped workers in One Fair Wage (equal treatment) states, while still in need of improvement, did not diverge as greatly from one another (Figure 1).

Figure 1. Because of low pay and unreliable schedules, tipped workers (especially those in states with a tip credit) have twice the poverty rate of non-tipped workers[30]



- **Tipped workers are forced to live on unpredictable incomes and schedules.** Their take-home pay fluctuates widely depending on the seasons, the shift they are given, and the generosity of patrons. On average, tipped workers in Minnesota work 29.5 hours per week and restaurant servers work just 26.3 hours per week.[31] In comparison, the average number of hours worked for all employees in the private sector in Minnesota was nearly full-time (34.1 hours per week) in 2017[32]—a significant difference that reflects the precarious nature of tipped occupations, particularly in the restaurant industry.

- **The lack of stable incomes for tipped workers makes it difficult to plan a family budget.** Were St. Paul to adopt a tip credit, the tenuous living standards of many tipped workers would be exacerbated, particularly when compounded by climbing rents[33] and other basics costs[34] in the Twin Cities. As discussed above, the Economic Policy Institute estimates that in 2017, single workers in the St. Paul metropolitan area needed $17.78 per hour to pay for the basics, while single parents raising one child needed $32.68 per hour. By 2024, they will need to earn an hourly wage of $20.97 and $38.54, respectively.[35]

- Due to the dual pressure of low or precarious pay and high costs of living, **nearly half of all tipped workers in the U.S. are forced to rely on public benefits**. According to research by the University of Berkeley and the Economic Policy Institute, nationwide, around 46 percent of *tipped workers* and their families rely on public programs—a significantly higher share than the 35.5 percent of *non-tipped* workers and their families who also rely on these programs.[36]

Preserving a One Fair Wage System in St. Paul Is a Matter of Basic Fairness and Gender Justice; Abandoning It May Exacerbate Sexual Harassment

- **Because the majority of tipped workers are women, rolling back the One Fair Wage system in St. Paul would have a disproportionate impact on the incomes of women and female-headed households.** Nationwide, there are over 4 million workers employed in predominantly tipped occupations, two-thirds of whom are women.[37] Among restaurant servers—who represent nearly half (48.9 percent) of tipped workers—women account for 70.3 percent of workers.[38] In Minnesota, the latest available detailed census data shows that women make up an overwhelming 80.1 percent of restaurant servers.[39]

- **Allowing a tip credit in St. Paul would roll back progress on the gender wage gap, and intensify its pernicious effects on women's economic security.** Women in Minnesota earn 17 percent less than men, according to a recent report by the American Association of University Women,[40] which—compared to the 27 percent gap in 1999—is a slight but important improvement over recent years.[41] The gender pay gap reflects, in part, gendered occupational segregation,[42] such as the overrepresentation of women in low-pay occupations, including restaurant servers. With the adoption of a subminimum tipped wage in St. Paul, the gender pay gap could widen, as tipped workers would be guaranteed only a minimum wage paid directly by their employer equal to the state's lower wage floor—currently $9.65 per hour, or 35.7 percent lower than the target rate of $15. This would, in turn, not only reverse progress on closing the wage gap in the state and the city, but also leave women in tipped occupations dependent on tips for a bigger portion of their income and, as a result, more vulnerable to poverty and economic insecurity.

- **Sexual harassment is rampant in the accommodations and food services industry.** Both research and anecdotal evidence point to higher rates of sexual harassment in service sector industries—particularly in the accommodations and food service industry, which includes full-service restaurants—than in other industries. Analysis of sexual harassment charges filed with the Equal Employment Opportunity Commission (EEOC) between 2005 and 2015 shows that over 14 percent of all sexual harassment filings originated in the accommodations and food service industry—the highest among the 20 industries identified in filings.[43] Other research shows a connection between the sexualization of women's bodies and gratuities, with more attractive (and usually white) female servers reporting higher tips, compared to their peers.[44] In addition, allegations of sexual harassment by celebrities, renowned chefs and other high profile individuals have prompted media investigations of the pervasiveness of similar conduct among ordinary people. For example, the *New York Times* recently published a story on sexual harassment in the restaurant industry, based on interviews with more than 60 servers and bartenders from around the country. While these tipped workers' experience with sexual harassment varied, they nonetheless reported two common reactions: Feeling compelled to tolerate this behavior in order improve their odds of earning a decent tip; and feeling powerless to reject this behavior from customers.[45]

The Lower Subminimum Wage for Tipped Workers is a Unique, Unfair, and Unnecessary Subsidy for Employers in the Restaurant Industry

- The intended purpose of tips is to reward good service rather than to serve as a substitute for the wages directly paid by employers. In states where a tip credit is allowed, however, tips have become a means for employers to transfer responsibility for paying employees' wages onto the customer. This mainly benefits employers in the restaurant industry and other service industries where the majority of tipped workers are employed. **No other industries are subsidized this way.**

- Employers in the restaurant industry are among the most avid users not only of the tipped subminimum wage, but also of the standard minimum wage, and they are among the least likely to offer workplace benefits—such as health insurance, paid sick leave, and paid holidays—making the industry one of the least generous.[46]

- The restaurant industry is **one of the most profitable** sectors of the economy. According to the National Restaurant Association, nationwide industry sales were expected to reach $799 billion in 2017—equivalent to 4 percent of the U.S. gross domestic product.[47] The industry employed 14.7 million workers last year, or roughly 10 percent of the nation's workforce, a number that is expected to increase by nearly 11 percent by 2027.[48] These figures suggest a healthy and profitable industry that could withstand the gradual elimination of the tipped subminimum wage at the national level.

- In Minnesota, despite equal treatment for tipped workers, the restaurant industry is similarly profitable and thriving (see the first section of this report). The St. Paul City Council should not change its law to adopt an unfair and unnecessary tip credit system.

Minnesota Is One of Seven States Without a Tipped Subminimum Wage; These States Have Fast-Growing Restaurant and Hospitality Sectors

- Seven states, including Minnesota, do not have a tipped subminimum wage. The seven One Fair Wage states are California, Nevada, Washington, Minnesota, Alaska, Oregon, and Montana. And, as noted above, many local jurisdictions—including Minneapolis, Seattle, and various cities and counties in California—that have adopted a $15 minimum wage have done so without adopting a lower minimum wage for tipped workers.[49]

- Analysis of restaurant data shows that One Fair Wage states represent some of the fastest-growing states for the restaurant and hospitality sectors. See NELP and ROC-United's report, *The Case for Phasing Out Maine's Subminimum Wage for Tipped Workers*, for additional details.[50]

A Growing Movement Is Advocating for—and Winning—One Fair Wage—It Would Be a Mistake for St. Paul to Move in the Opposite Direction

- **A growing national movement for One Fair Wage** has brought to the fore the need to abolish the subminimum tipped wage with increasing success**.** In November 2016, this movement won its first significant victory in three decades, when voters in Maine and Flagstaff, AZ, approved the gradual elimination of the subminimum wage for tipped workers through ballot initiatives[51]—though, in the case of Maine, business groups successfully lobbied the state legislature to roll back One Fair Wage just a few months later.[52]

- At the federal level, the current bill in Congress that would raise the federal minimum wage to $15 also includes a gradual phasing out of the lower tipped minimum wage.[53] Introduced by **Senator Bernie Sanders** in the Senate and Representative **Bobby C. Scott** in the House, the Raise the Wage Act has the support of 200 members of Congress, including Minnesota Senator **Amy Klobuchar**, and Minnesota Representatives **Keith Ellison** and **Betty McCollum**, all of whom are original cosponsors.[54]

- In June 2017, soon after introducing the Raise the Wage Act in the U.S. House and while Minneapolis debated raising its minimum wage to $15 without exempting tipped workers, **Rep. Ellison wrote,** "Unlike the federal government, Minnesota has been for more than 30 years one of the few states that does not have a separate, subminimum wage for tipped workers. That is something I am proud of and I know many other Minnesotans are, too."[55]

- Today, there are nearly a dozen upcoming or future minimum wage campaigns at the state and local level calling for raising the minimum wage to $12 to $15 along with the elimination of the tipped subminimum wage.

The Tipped Subminimum Wage System Is Difficult to Monitor and Enforce; It Would Add Undesired Complexity to St. Paul's Wage Law

- In jurisdictions without One Fair Wage, employers are required by law to make up the difference between tips and the minimum wage if employees' total hourly earnings do not bring them to the full minimum wage. However, the complexity of the tipped credit system and the scarcity of public and private enforcement of wage laws makes this requirement difficult to monitor and enforce.[56]

- Not surprisingly, the U.S. Department of Labor found an **84 percent noncompliance rate** among the nearly 9,000 full-service restaurants it investigated from 2010–2012. Violations included tip credit infractions and other forms of wage theft, resulting in **$56.8 million in back pay** for affected workers.[57]

- St. Paul should reject calls to adopt a tipped subminimum wage in the city. Doing otherwise would add undesirable complexity to its wage laws, making compliance more difficult for employers in the city and life more precarious for tipped workers.

Conclusion

Tipped workers in St. Paul need and deserve $15 as their base wage. Moving to a tip credit system would hurt tipped workers and make it harder for them to make ends meet and to provide for their families. Both data and the experience of workers demonstrate that tipped workers typically earn just a few dollars above the minimum wage, and as a result have significantly higher levels of poverty than the rest of the workforce. A tip credit system would also introduce unnecessary complexity to St. Paul's wage law, which would make the law harder to enforce and wage theft more likely to occur. Since the overwhelming majority of tipped workers are women, a tip credit system could widen the gender wage gap and exacerbate their experience with sexual harassment—with especially pernicious effects on female-headed households.

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50. Restaurant Opportunities Center United and National Employment Law Project, *The Case for Phasing Out Maine's Subminimum Wage for Tipped Workers*, October 2016, http://www.nelp.org/content/uploads/Maine-Sub-Minimum-Wage-Report.pdf.

51. National Employment Law Project, *Minimum Wage a Big Winner on Election Day*, November 2016, http://www.nelp.org/content/uploads/Minimum-Wage-Wins-2016-Elections.pdf.

52. Christopher Cousins, "Maine Lawmakers Repeal Part of Minimum Wage Law That Voters Just Passed," *Governing*, June 28, 2017, http://www.governing.com/topics/mgmt/tns-maine-lepage-voters-ballot-minimum-wage.html.

53. Raise the Wage Act, H.R. 15; S. 1242, 115th Congress (2017–2018).

54. Ibid.

55. Keith Ellison, "Three Myths About the Minimum Wage," *Star Tribune*, June 14, 2017, http://www.startribune.com/three-myths-about-the-minimum-wage/428513483/.

56. Restaurant Opportunities Center United and National Employment Law Project, op. cit.

57. Allegretto and Cooper, op. cit.

The Glass Floor

Sexual Harassment in the Restaurant Industry

October 7, 2014

BY

The Restaurant Opportunities Centers United

Forward Together

IN COOPERATION WITH

9to5, National Association of Working Women
Equal Rights Advocates
Family Values @ Work
Hollaback!
MomsRising
National Organization for Women Foundation
National Women's Law Center
One Billion Rising
Wider Opportunities for Women

FUNDING SUPPORT
The Ms. Foundation
The NoVo Foundation
The Women's Equality Center

Executive Summary

THE RESTAURANT INDUSTRY employs nearly 11 million workers and is one of the fastest-growing sectors of the U.S. economy.[1] Despite the industry's growth, restaurant workers occupy seven of the ten lowest-paid occupations reported by the Bureau of Labor Statistics.[2] The economic position of women restaurant workers is particularly precarious.[3] Women restaurant workers experience poverty at nearly one and one third the rate of men restaurant workers.[4] Women's greater economic insecurity in the industry is largely attributable to their greater likelihood of being employed as tipped workers. While women are 52% of all restaurant employees, they are two-thirds or 66% of all tipped restaurant workers.[5] A majority of these tipped workers are employed in casual, family-style restaurants where tips are meager. The median wage for tipped workers hovers around $9 an hour *including tips*.[6]

Tipped workers occupy a uniquely vulnerable position in our nation's employment landscape. Federal law allows for pay discrimination between tipped and non-tipped workers, permitting employers to pay tipped workers a sub-minimum wage of $2.13 per hour. As a result, tipped restaurant workers are expected to collect the remainder of their wages from customers' tips, creating an environment in which a majority female workforce must please and curry favor with customers to earn a living. Depending on customers' tips for wages discourages workers who might otherwise stand up for their rights and report unwanted sexual behaviors.

Since women restaurant workers living off tips are forced to rely on customers for their income rather than their employer, these workers must often tolerate inappropriate behavior from customers, co-workers, and management. This dynamic contributes to the restaurant industry's status as the single largest source of sexual harassment claims in the U.S. While seven percent of American women work in the restaurant industry, more than a third (an eye-opening 37%) of all sexual harassment claims to the Equal Employment Opportunity Commission (EEOC) come from the restaurant industry.[10] Even these high levels of complaints to the EEOC may underreport the industry's rate of sexual harassment. Restaurant workers in focus groups gathered through this study noted that sexual harassment is "kitchen talk," a "normalized" part of the work environment and that many restaurant workers are reluctant to publicly acknowledge their experiences with sexual harassment.[11]

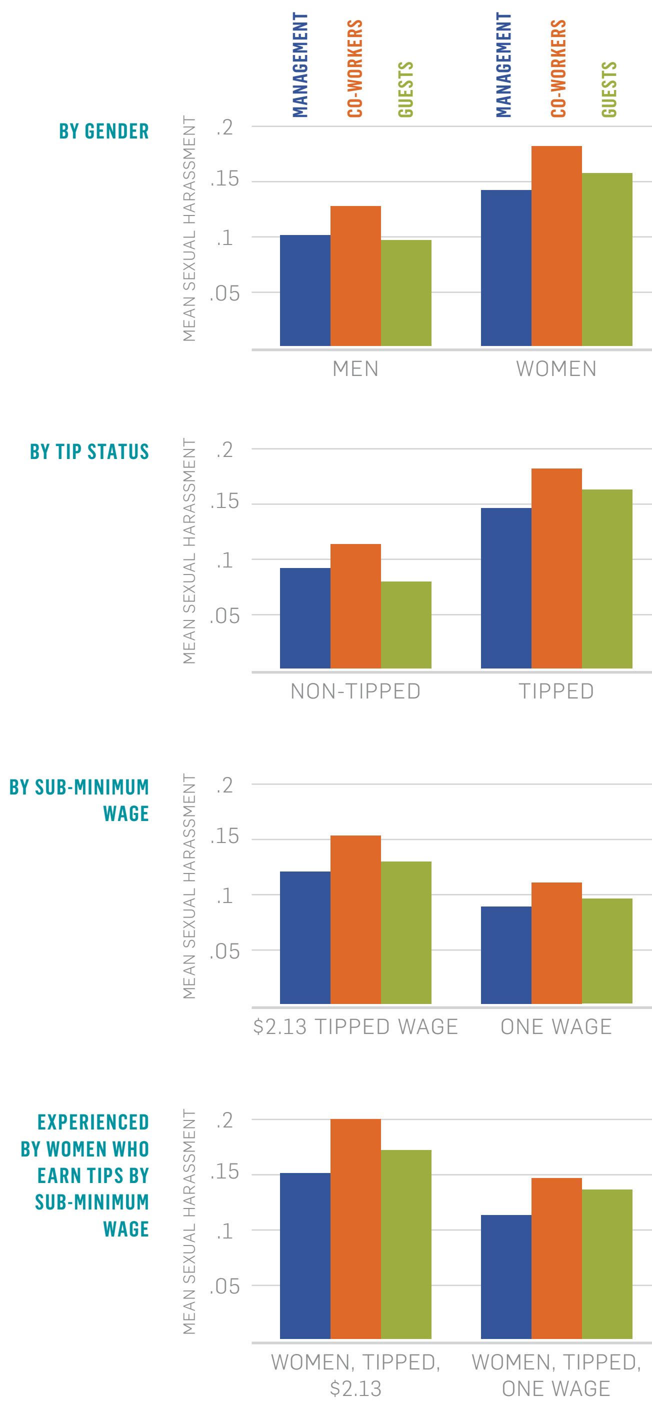
TIPPED SUB-MINIMUM WAGE

Since 1991, the federal tipped sub-minimum wage has been set at $2.13 per hour. States may establish a minimum wage that is higher than the federal government's. This has resulted in a patchwork of state policies in which, effectively, restaurant workers in 22 states receive the federal sub-minimum wage of $2.13 per hour, restaurant workers in 20 states receive a slightly higher state sub-minimum wage of between $2.13 and $5.00 per hour, and restaurant workers in eight states receive the full minimum wage because those states have chosen to pay an equal wage to both tipped and non-tipped workers.[7] Poverty rates for tipped workers – particularly for women, who make up 66% of all tipped workers, and for people of color, who make up 40% of the total - are higher in states that pay a $2.13 sub-minimum wage than in states that pay one minimum wage for tipped and non-tipped workers.[8,9]

FIGURE A

Sexual harassment from managers, co-workers and guests

Differences in mean sexual harassment from management, co-workers, and guests, by gender, tipped-occupation, and sub-minimum wage, as well as among women who live off tips by sub-minimum wage. Co-workers were responsible for the highest rates of sexual harassment overall, but women in tipped occupations in states where the sub-minimum wage is $2.13 experienced the highest rates of sexual harassment across all three groups.



The glass ceiling refers to the barrier that keeps women from advancing into the upper levels of positions within organizations. We coin the term glass floor to refer to the system that leaves women and all workers in a state of insecurity because of the intersection of economic precariousness and a sexualized work atmosphere.

To examine the incidence of unwanted sexual behavior and sexual harassment in the restaurant industry, ROC United and Forward Together surveyed 688 current and former restaurant workers across 39 states. The results provide the most accurate picture to date of the rate and types of sexual harassment experienced by restaurant workers.

This study finds sexual harassment in restaurants is widespread and is experienced by all types of workers. The highly sexualized environment in which restaurant workers labor impacts every major workplace relationship, with restaurant workers reporting high levels of harassing behaviors from restaurant management (66%), co-workers (80%), and customers (78%). Sixty percent of women and transgender workers,[12] and 46% of men reported that sexual harassment was an uncomfortable aspect of work life, and 60% of transgender, 50% of women and 47% of men reported experiencing 'scary' or 'unwanted' sexual behavior. Forty percent of transgender, 30% of women, and 22% of men reported that being touched inappropriately was a common occurrence in their restaurant.

One of the most powerful findings of this study is the extent to which the industry's already high levels of sex harassment are exacerbated by systems in which tipped restaurant workers — primarily women — endure legalized pay discrimination in the form of a sub-minimum wage. In states that allow a sub-minimum wage for tipped workers, these workers' hourly wages are so low that they often go entirely to taxes, forcing millions of tipped restaurant workers, the vast majority of whom are women, to live entirely off their tips.

Living off tips makes an industry already rife with sexual harassment even more dangerous. Women restaurant workers living off tips in states where the sub-minimum wage for tipped workers is $2.13 per hour (hereinafter called '$2.13 states') are twice as likely to experience sexual harassment as women in states that pay the same minimum wage to all workers.[13] Tipped women workers in $2.13 states reported that they were three times more likely to be told by management to alter their appearance and to wear 'sexier,' more revealing clothing than they were in states where the same minimum wage was paid to all workers. Conversely, tipped women workers in states that have eliminated the sub-minimum wage were less likely to experience sexual harassment. Importantly, sub-minimum wages impact all workers in the industry — not just tipped workers. **All workers in states with a $2.13 sub-minimum wage, including men and non-tipped workers, reported higher rates of sexual harassment,** indicating that the overall restaurant work environment is at least partially shaped by the sub-minimum wage system itself.

The high levels of sex harassment experienced by all restaurant workers — and by women and tipped restaurant workers in particular — are even more troubling given that the size of the industry means that many young women in America are introduced to the world of work in a restaurant. A restaurant job is often the first job a young woman obtains, whether she stays in the industry her whole life or moves on to another career.[14] This environment is where many women first learn their worth as workers. Countless young women start out as early as high school working as part-time servers, bussers, hostesses, and dishwashers in casual, family restaurants and fast-food chains that are notorious for low wages, poor sanitary and safety conditions, and sexual harassment. A negative first experience in the restaurant increases the likelihood that women will come to expect sexual harassment in other work environments. In our study, women who had previously worked as tipped workers were 1.6 times as likely to live with harassing behaviors in the workplace as the women who were currently employed as tipped workers.

It is critical to contextualize the concept of 'living with' sexual harassment in the workplace as something different than consent. Our survey and focus group results show that most workers either ignore or put up with harassing behaviors because they fear they will be penalized through loss of income from tips, unfavorable shifts, public humiliation, or even job loss. At the same time, workers are taking steps to address the impact of harassment on their well-being. Seventy-six percent of workers who experienced sexual harassment talked to their families and friends about their experiences, 73% talked to their co-workers, and 44% talked to a supervisor. Eighty-eight percent of workers who experienced sexual harassment reported that they'd be more likely to talk to their supervisor about these experiences if they were part of a group of co-workers.

Together these findings paint a troubling portrait of endemic sexual harassment in the restaurant industry. Widespread harassment, particularly towards women and tipped workers, demonstrates how power is used to exert control over other workers' bodies and livelihoods. Our data shows that all too often the economic insecurity of living off tips contributes to higher levels of physical insecurity being reported by all restaurant workers — and particularly women restaurant workers

— in a workplace rife with sexual harassment. In order to reduce the pressures that increase sexual harassment, we must eliminate the sub-minimum wage for tipped workers while implementing and strengthening policies to educate workers on their rights and reduce rates of sexual harassment. Legislating one fair wage, so all workers are ensured a minimum wage sufficient to cover their basic needs, and eliminating a sub-minimum wage for tipped workers, can give all workers greater personal agency, creating a safer and more equitable workplace.

1 Restaurant Opportunities Centers United (ROC-United) analysis of Bureau of Labor Statistics (BLS), Current Employment Statistics, 2014.
2 ROC-United analysis of Bureau of Labor Statistics (BLS), Occupational Employment Statistics, 2013. National Cross-Industry Estimates sorted by median hourly wage for all Standard Occupational classifications.
3 Throughout, sex descriptors are used rather than gender descriptors to avoid assumptions about individuals' preferred gender.
4 Shierholz, Heidi. (2014, August 21). *Low Wages and Few Benefits Mean Many Restaurant Workers Can't Make Ends Meet.* Washington DC: Economic Policy Institute.
5 Women comprise two-thirds of all restaurant workers as well as all tipped workers. Tipped restaurant workers comprise 63% of all tipped workers. ROC-United, National State of Tipped Workers, 2014.
6 Ibid.
7 Hawaii currently pays tipped workers a quarter less than the full minimum wage. However, by January 2018 the tipped minimum wage in Hawaii will increase to $10.10 for all tipped workers who earn less than $17.10/hour including tips.
8 Robbins, K. G., Vogtman, J., Entmacher, J. (2014). *States with Equal Minimum Wages for Tipped Workers Have Smaller Wage Gaps for Women Overall and Lower Poverty Rates for Tipped Workers.* Washington DC: National Women's Law Center.
9 ROC-United, National State of Tipped Workers, 2014.
10 ROC-United, 2012. *Tipped Over The Edge: Gender Inequity in the Restaurant Industry.* New York, NY: Restaurant Opportunities Centers United.
11 ROC-United. *Sexual Harassment Focus Groups.* (June, 2014).
12 Transgender refers to gender non-conforming individuals, including people who identified as gender-fluid and gender queer. Eighteen transgender individuals participated in the survey. Due to small sample size, and high variance, the experience of transgender restaurant workers is discussed in a special section of the report.
13 Examining above and below average sexual harassment for all workers in the industry. Odds Ratio: 7.451.
14 *America works here*, National Restaurant Association. Retrieved September 19, 2014, from http://www.americaworkshere.org/first-job.

2018 STATE OF TIPPED RESTAURANT WORKERS

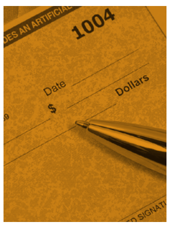
MINNESOTA

TIPPED SUBMINIMUM WAGE

$9.65

MINIMUM WAGE

$9.65



WAGES

	RESTAURANT WORKERS	TIPPED RESTAURANT WORKERS	SERVERS	ALL TIPPED WORKERS	TOTAL WORKFORCE
MEDIAN WAGE[1]	$9.78	$9.62	$9.45	$10.17	$19.28
PREVAILING WAGE[2]	$11.50	$10.75	$10.75	$11.44	$24.68
NUMBER OF WORKERS	236,830	100,580	50,230	124,390	2,810,400

GENDER

	RESTAURANT WORKERS	TIPPED RESTAURANT WORKERS	SERVERS	ALL TIPPED WORKERS	TOTAL WORKFORCE
FEMALE	56%	70%	74.5%	70.6%	48.1%
MALE	44%	30%	25.5%	29.4%	51.9%

RACE

	RESTAURANT WORKERS	TIPPED RESTAURANT WORKERS	SERVERS	ALL TIPPED WORKERS	TOTAL WORKFORCE
WHITE	73.8%	80.4%	80.6%	77.9%	85%
BLACK	5.4%	3.7%	3.3%	6.2%	4.4%
ASIAN	5.1%	4.9%	4.9%	7.6%	4.4%
LATINO	12%	7.5%	7.5%	5.4%	4.2%
OTHER	3.4%	4.6%	3.7%	2.9%	2.1%

AGE

	RESTAURANT WORKERS	TIPPED RESTAURANT WORKERS	SERVERS	ALL TIPPED WORKERS	TOTAL WORKFORCE
MEDIAN AGE	27	25	25	29	42
≤ 24	43%	48.1%	47.1%	35.1%	13.8%
25 - 44	36.4%	37.3%	39.2%	42.1%	41.8%
45 - 64	18%	12.3%	12.6%	19%	39.9%
65+	2.6%	2.3%	1%	3.8%	4.5%

EDUCATION

	RESTAURANT WORKERS	TIPPED RESTAURANT WORKERS	SERVERS	ALL TIPPED WORKERS	TOTAL WORKFORCE
LESS THAN HIGH SCHOOL	19.5%	15.8%	12.1%	11%	5.4%
HIGH SCHOOL	41.6%	36.7%	35.1%	40.8%	30%
SOME COLLEGE	29.6%	33.4%	37.3%	35.3%	29.1%
COLLEGE PLUS	9.3%	14.2%	15.5%	13%	35.6%

1 May 2016 State Occupational Employment and Wage Estimates, Bureau of Labor Statistics. Customarily tipped restaurant occupations: Bartenders; Counter Attendants, Cafeteria, Food Concession, and Coffee Shop workers; Waiters and Waitresses; Food servers, Non-restaurant; Dining Room and Cafeteria Attendants and Bartender Helpers; and Hosts and Hostesses, Restaurant, Lounge, and Coffee Shop. Other tipped occupations: Massage Therapists; Gaming Services Workers; Barbers; Hairdressers, Hairstylists, and Cosmetologists; Manicurists and Pedicurists; Shampooers; and Skin Care Specialists; Baggage Porters, Bellhops, and Concierges; Taxi Drivers and Chauffeurs; and Parking Lot Attendants.

2 The mean wage as defined by the Occupational Employment and Wage Estimates, Bureau of Labor Statistics. The prevailing wage is the wage at which restaurant employers are allowed to hire temporary H2-B workers in order not to underbid workers in the United States.

OFW ONE FAIR WAGE
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2018 STATE OF TIPPED RESTAURANT WORKERS

MINNESOTA

MARITAL & PARENTAL STATUS

	RESTAURANT WORKERS	TIPPED RESTAURANT WORKERS	SERVERS	ALL TIPPED WORKERS	TOTAL WORKFORCE
MARRIED	25.3%	20%	19.9%	30.7%	55.8%
PARENTS	23.6%	20.8%	22.3%	28.6%	39.8%
FATHERS	15.8%	11.5%	11.4%	19.2%	38.2%
MOTHERS	29.7%	24.8%	26.1%	32.5%	41.6%
SINGLE MOTHERS % ALL WOMEN	13.2%	12.3%	13.8%	14.1%	11.4%
MOTHERS WHO ARE SINGLE	44.4%	49.4%	53.1%	43.5%	27.3%

POVERTY

	RESTAURANT WORKERS	TIPPED RESTAURANT WORKERS	SERVERS	ALL TIPPED WORKERS	TOTAL WORKFORCE
POVERTY	18.3%	18.4%	19.5%	16.2%	6.7%
POVERTY x STATEWIDE RATE	2.7	2.7	2.9	2.4	1
TWICE POVERTY	24.6%	23.6%	23.8%	22.1%	11.1%
FOOD STAMPS	12.7%	10.8%	11.3%	10.2%	6%
FOOD STAMPS x STATEWIDE RATE	2.1	1.8	1.9	1.7	1
MEDICAID	20.4%	18.2%	19.3%	19%	8.2%
MEDICAID x STATEWIDE RATE	2.5	2.2	2.4	2.3	1
WHITE WORKERS IN POVERTY	17.9%	18.7%	20.9%	15.9%	5.6%
WORKERS OF COLOR IN POVERTY	22%	21.7%	20.5%	20.6%	14.3%

GENDER WAGE GAP[3]

	RESTAURANT WORKERS	TIPPED RESTAURANT WORKERS	SERVERS	ALL TIPPED WORKERS	TOTAL WORKFORCE
MEDIAN WAGE GAP	96%	84.6%	67.1%	84.6%	87.8%
Lifetime Wage Tax (40 yrs)	$40,000	$160,000	$408,000	$160,000	$220,000
MEAN WAGE GAP	92%	85.9%	78%	77.7%	82.4%
Lifetime Wage Tax (40 yrs)	$85,769.60	$156,617.20	$265,956	$253,292.80	$383,993.20

FOOD STAMP & MEDICAID USAGE

	RESTAURANT WORKERS	TIPPED RESTAURANT WORKERS	SERVERS	ALL TIPPED WORKERS	TOTAL WORKFORCE
AVERAGE ANNUAL FOOD STAMP BENEFIT	$38,052,736.04	$13,742,977.62	$7,181,035.51	$16,052,071.74	$213,336,339.84
ANNUAL MEDICAID BENEFIT COST FOR ADULTS	$227,845,617.12	$86,329,020.96	$45,718,743.24	$111,458,415.60	$1,086,815,404.80
TOTAL PUBLIC ASSISTANCE	**$265,898,353.16**	**$100,071,998.58**	**$52,899,778.75**	**$127,510,487.34**	**$1,300,151,744.64**

SEVEN STATES HAVE adopted equal treatment (One Fair Wage) for tipped workers with one minimum wage for all workers, regardless of tips. One Fair Wage states have more robust wages, tips, sales, employment, and establishment growth than unequal treatment states.

FOR MORE INFORMATION or to get involved, please visit OneFairWage.org

#1FAIRWAGE

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SEXUAL HARASSMENT

Accommodation and food services is the single largest source of sexual harassment claims. **Nearly 90% of tipped restaurant employees experience unwanted sexual behaviors at work, and over half report that it is a weekly or daily occurrence at their workplaces.** Over half say that depending on tips leads them to accept inappropriate behaviors that make them nervous or uncomfortable. Women restaurant workers living off tips in states where the sub-minimum wage for tipped workers is $2.13 per hour are twice as likely to experience sexual harassment, and three times as likely to be told by management to alter their appearance and to wear 'sexier,' more revealing clothing as women in one fair wage states. **The subminimum wage means workers must depend on gratuities as their primary source of income, forcing them to tolerate harassment to safeguard their livelihood.**

3 Wage gap calculation assumes the same wage gap for a 40-year career based on a 40-hour work-week, 52 weeks per year.

Source: ROC United analysis of American Community Survey (2012-2015). Ruggles, Steven, Alexander J. Trent, Genadek Katie, Goeken Ronald, Schroeder Matthew B., and Soebek Matthew, Integrated Public Use Microdata Series: Version 5.0 [Machine-readable database], (Minneapolis: Minnesota Population Center, 2010).

Summary (8 comments)

1) Commenter thinks it is important for study committee to have context on the group that presented during the tip credit panel and provides a link to a journal article on the Restaurant Workers of America.

2) Organization that provides job training and supports for adults with developmental disabilities describes workforce crisis in their industry (over 9,000 job openings throughout the state). Carve out will not help because it will make jobs in their industry even less competitive. Asks City of Saint Paul and other legislative bodies to work with legislators and Governor to provide per diem increases of Medicaid dollars at state and county levels to cover the costs of these increases.

3) Restaurant owner in favor of tip credit to prevent server positions being eliminated entirely, restaurants going out of business, and food prices going up.

4) "Service oriented" business owner in favor of tip credit and gradual minimum wage increase to keep worker motivated, prevent pricing increases, and protect small businesses.

5) Comment submitted only a link to an opinion piece advocating for a tip credit. *[Note: This is the 3rd submission from this commenter.]*

6) In favor of a tip credit to avoid a reduction in pay as a $27/hour earner and a move out of Saint Paul to a place that allows tip credit where they can afford to live.

7) Commenter is unhappy with low wage worker panel composition, stating that there should have been a server on it if they are living in poverty as 15 Now claims. *[Note: This is the 4th submission from this commenter.]*

8) In favor of a tip credit as someone watching the Minneapolis minimum wage slowly destroy restaurants and seeing large staffing cuts.

Full Comments

1. (Email submission 6/26/18) Wanted to send along this interesting piece on the group that presented last week that gives context important for the task force to understand the current tip debate. https://www.cjr.org/analysis/77-referendum-astroturf-tipping.php

2. (Email submission 6/28/18) We provide job training and supports for adults with developmental disabilities primarily in Ramsey County. One of our four Community Resource Centers is located in St. Paul. This location employs 10 staff and provides supports for approximately 50 adults with developmental disabilities (persons served).

   Our industry is currently in a workforce crisis with over 9,000 open positions in residential and day programs across the state. *[Name redacted]* is currently experiencing the highest turnover rates in over a decade (49.48% in 2017, compared to an average of around 25% in past years). Ongoing open positions have climbed from an average of 2 open at any given time, to 6. It takes us upwards of 6 months to fill one open position. That will be solved, we're told, by simply raising the minimum wage.

That being said, we are funded primarily through state and county levels through Medicaid dollars. In order to increase wages, we would need to a get a per diem increase passed by state legislation. We are afraid of what a $15/hour minimum wage rule will do to our industry. This year we had to go into defense mode in order to try and stop a 7% cut to our per diem. We had a bill in place that would have done this. However, it was included in the 1,000 page Omnibus Bill that was subsequently vetoed by the Governor. That means we will start seeing a 7% cut to unbanded rates as of 7/1/18, and a 7% cut to banded rates when banding ends in 2020. To add an increase in expenses due to a minimum wage increase would be unsustainable.

In addition, we need to be able to pay more than minimum wage in order to maintain competitiveness with other industries. Our staff have a lot of responsibility, are required by licensing to have specific training, and our industry is highly regulated. It is a stressful position, which includes the roles of supervisor, caregiver, co-worker (they have to fill in at job sites when persons served are unable to perform the job), confidant, advocate, nurse, and case worker to name a few. With an increase in minimum wage to $15/hour, we would need to be able to pay at least $17/hour in order to attract and retain qualified candidates. This means a revenue increase of at least $100,000 just to cover our staff at our St. Paul location. In reality, we would likely have to increase all staff, which would mean at least $500,000 of additional revenue needed. This doesn't include any of our drivers.

I understand a carve out was being considered, but unfortunately, this would make our current workforce crisis seem small as we would no longer be competitive with any other industry in St. Paul. We would be in situations where persons served are making more money per hour than the staff supervising them (we are already almost there in a few of our employment positions).

We are in support of a minimum wage increase if, and only if, the City of St. Paul and other legislative bodies will work with legislators and the Governor to provide per diem increases to cover the costs of these increases. We cannot be in a position where we are even less competitive in the job market than we are now.

3. (Voicemail submission 6/28/18) Hi, this is *[redacted]* over at *[redacted]* Saint Paul, Minnesota. We also own *[unclear]* on the same building. We have three restaurants out there with 87 employees. We would need, our industry needs to have some type of tip credit for our servers. I believe most of the you will not see another server again if you do not have tip credit involved and then we also have to, we need to come up with a longer phase for the $15 an hour if that does come in. Most of my kitchen help does not even make $15 already and so I see this with lot of the people in the industry already up and down on Grand Avenue. I can make my records available. I have for Mayor Carter and his committee. As far as what my servers make per hour, they average close to 24 hours— $24 an hour compared to the regular people, the server— or I'm sorry, the workers in the kitchen. And so I need you to really consider that please and I am also on the BRC for the City of Saint Paul and also involved in the Liquor & Beverage Association. We just need to have a longer phase in for that $15 if it does come, we know it is coming. You need to— and then some kind of tip credit for our servers. Otherwise, you will see a third or maybe a quarter of the restaurants go out of business, I think in the first year, year and a half of this, two years that this goes into effect. And uh, puts us at a bad advantage with the rest of the cities around us to try and compete for help and stay in business. The age of a $20 hamburger will be coming if this does come into effect and people are just not ready to pay that. Thank you. Once again, *[name redacted]* up at *[redacted]*, *[redacted]*, and also *[unclear]* up at *[address redacted].* Be reached at *[phone number redacted]*. Thank you.

4. (Email submission 6/28/18) Citizens League~
I am writing to tell you how important a tip credit is for our minimum wage workers as a service oriented

business. Our bartenders and servers work tirelessly trying to make the clients experience at the *[redacted]* a pleasant and memorable event. The incentive is the tips that help increase their pay for the evening. Like most people, incentive is motivation. If the minimum wage is increased to a sudden $15./hr. then the pricing of events and liquor will have to increase to make up the additional wage, taxes, insurance, etc. that are involved. This will result in a decrease in business and probably a need for less service personnel. We are one of only 7 States that do not include tips as part of wages, and why is that? I believe in an increase in minimum wage on a gradual scale and with tip credit so that those who do not get tips will get the benefit of the increase and not those who are already making well over the minimum wage when tips are included. Believe me, after 25 years in business, the first 5-6 years are the hardest and you don't see a profit for at least that long. For a small business to start out now, we have made it almost impossible for them to succeed with all the changes and costs involved. Please don't push for this $15./hr. minimum wage with no tip credit and no graduating scale. We want to encourage small business, not dig a bigger hole for them to try to get out of. Small business is the backbone of this country and needs your support and encouragement. Thank you for your attention to this matter~

5. (Webpage submission 6/29/18) *[Note: This is the 3rd comment from this contributor following two comments submitted on 5/31/18 and participation on the 6/21/18 study committee panel.]* http://www.sandiegomagazine.com/Blogs/SD-Food-News/Summer-2018/Stop-Killing-Chloes/

6. (Webpage submission 6/29/18) I'm in favor of a tip credit. I average $27.00 an hour. Getting rid of the tip credit would force me out of St.Paul and I would have to move to a place that allows a tip credit and a place I can afford to live. Taking away the tip credit would reduce my pay significantly forcing me out of city.

7. (Webpage submission 6/30/18) *[Note: This is the 4th comment from this contributor following two comments submitted on 5/31/18, one comment submitted on 6/29/18, and participation on the 6/21/18 study committee panel.]* If 15now claims that servers are living in poverty and are one of the largest populations of low wage workers, why wasn't there one server on the low wage worker panel? Who put together the low wage worker panel? There wasn't one worker on that panel that deviated from the narrative of 15now even though there are many low wage workers that advocate for specific exemptions. Why on earth was a business owner- who was flown in by Socialist Alternative- given space on a St. Paul low wage worker panel?! It seems to me that this panel was not put together to educate the committee about various perspectives, but was put together to belabor one particular perspective. Commenter is unhappy with low wage worker panel composition.

8. (Webpage submission 7/1/18) We need a tip credit. I am watching the Minneapolis minimum wage slowly destroy restaurants and see large staffing cuts. A tip credit is a no-brainer. Thank you

Summary (7 comments)

1) Relative of many restaurant servers advocates for a tip credit, saying not having one is a wage reduction for servers at fine dining establishments and threatens the vibrant St. Paul restaurant scene.

2) Restaurant owner advocates for a tip credit, saying an increase in the minimum wage without a tip credit would make her business insolvent and would remove the incentive for servers to work hard.

3) Commenter shares link to news article (found at end of this report) suggesting getting rid of tips altogether as another possible model.

4) Bartender advocates in favor of a tip credit, saying not having one will result in job and hour cuts, higher prices, and business closures.

5) Server advocates for a tip credit, saying that without one, labor costs will spike dramatically, wages will stagnate, and employers could consider adding service charges, which lead to wage theft.

6) Restaurant owner advocates for tip credit, saying it is necessary to keep St. Paul's thriving restaurant business afloat and a lack of tip credit will force restaurants to cut hours.

7) Teacher who works in retail during the summer supports a $15/hour wage, saying it is difficult to pay rent and living expenses with less. Also supports no tip penalty so restaurant industry friends can pay living expenses as well.

Full Comments

1. (Email submission 7/6/18) To the members of the Citizens League Minimum Wage Study Committee,

   Thank you for taking your time to read my input regarding the $15 minimum wage debate currently going on in St. Paul, where I live and work. I fully support raising the minimum wage and am excited to see my city moving towards a more equitable path. However, I am writing to you today to urge you to insist on a tip credit.

   I was raised by a restaurant waitress. While my father worked a full-time union job, my mother was able to supplement his income working part-time pulling the lunch shift in downtown St. Paul. Making well over $20 an hour, she was able to earn an income that not only put food on the table, but also paid for vacations and summer camps, alleviated college tuition, and bought new clothes for the whole family. Although she was paid minimum wage by her employer and only worked 20 to 30 hours a week, she made a livable wage.

   Although I am now an adult, my mother is still a waitress, working part-time and now earning over $30 an hour at a new restaurant in St. Paul. My sister is now also in the service industry, working at a fine dining restaurant in St. Paul. She can easily make more than $40 an hour on a busy night. Her husband, also a server, pulls the same wage. My family is full of cousins and relations who are tipped employees, making well over $15 an hour. In fact, they make more money than I do.

This is the story of many – but not all – restaurant employees. They make good wages, have flexibility, and are able to contribute meaningfully to the economy and to our city's culture. And the $15 an hour minimum wage without a trip credit could put their livelihoods in jeopardy.

I love the vibrant restaurant scene here in the Twin Cities. Every year, we see many unique, chef-driven restaurants opening up or moving to St. Paul, thanks to the fact that the city of St. Paul makes opening a business simple. It would be a tragedy to see that all go away and have St. Paul fill with chain restaurants like that which we see in the suburbs. That isn't the vibrant culture we want in St. Paul – that isn't why people visit St. Paul or go out and spend money in St. Paul. But with the razor-thin margins of the restaurant industry, a $15 minimum wage puts that at stake. I supported – and in fact, spoke at rallies and events about – the paid Sick & Safe time legislation that St. Paul passed a couple of years ago. I supported it because I wanted my mother, my sister, my family and friends, to be able to care for themselves. And I supported it because I know that the vast majority of business owners care more about making ends meet than they do about their employees. I knew that with the Sick & Safe Time, restaurants would find a way to make it work and employees wouldn't be penalized. It wouldn't significantly threaten their margins. However, the minimum wage increase is different. If a restaurant's profit margins are threatened, it's the employees that will suffer. Restaurants will raise prices, opt to do counter service, move out of the St. Paul, or make tipping optional, as ways to keep their businesses afloat.

This would lead to lost jobs – and lost revenue – to the city of St. Paul. If tipping is optional or restaurants switch to counter service, my family would not be able to sustain themselves with the massive loss of wages that would result.

The minimum wage without a tip credit is a wage reduction for many tipped workers. We need to make sure that that doesn't happen. We need St. Paul to stay on the map as a mecca for fine dining and chef-driven eateries. And yes, we also need to make sure that those who currently make less than $15 an hour – whether tipped or not – boost their wages and live an equitable life in our city. A tip credit would do just that.

Please do not put my family and many of my friends out of work. Please do not cut their wages. They depend on the vibrancy of the restaurant industry, just as St. Paul does. They depend on tips. When you report to Mayor Carter, please insist on a minimum wage increase with a tip credit included.

Thank you.

2. (Voicemail submission 7/7/18) Hello, my name is *[redacted]*. I own a restaurant called the Finish Bistro on Como Avenue in Saint Paul. We are looking at the earned, the tip credit, the $15 minimum wage. We definitely need a longer phase in and you know, as it is, I don't know where the additional $200,000 a year is going to come from. I already only make *[unclear]* on the dollar. I mean this, this literally, I mean, if people are willing to pay 20 bucks for an omelet, I'm all for it. But I don't know, no matter how I crunch the numbers, there's, it's just not possible for a business my size and my type to even survive even if it was raised to $13 an hour. Like it's, it's, once you hit, once you get over about $12.05, I'm not, I can't be solvent, even with increasing costs and increasing the menu pricing 20%. It's just, no matter how we run the numbers, it's just, I have no idea how it's going to work. We definitely would have to institute some sort of, you know, 15-20% service fee, pass it on to the customers, and take away the tip line, and you know, what's nerve racking about that is that how are we going to ever have the ability to hire good help or taking away the incentive for, you know, we have servers here that people always want to work with—the other cashiers want to work with because they make the most tips. So we have pooled tips here. So then when they work with that one server, like, everyone wants to work with Michelle because she makes double the tips of everyone else because she's super awesome, accommodating, just, she works harder for the tips. It's like taking away the incentive, like why bother? You know, you're just doing this and then you

just get what you get. I just, I don't understand why that choice has to be taken away from me when I'm willing to guarantee that somebody who makes $15 an hour no matter what. And then that's the, I mean, it's like putting a putting a glass ceiling on what they're capable of making because we're not going to be able to afford to do both a service fee and still allow tips. I've looked at some of the business models that have done this and it doesn't look good. I'm just, this doesn't make sense to me. And if you have some secrets that you know of and that you can guarantee that this isn't going to put, you know, half the restaurants in Minnesota out of business, great. I would love to hear it. I haven't heard a compelling argument yet aside from—I'm a progressive, even. I was a social worker for 15 years, but wow, like, I'm also a person not just a business. Like, I am a small business that makes very little but I employ 22 people and I provide a great work environment and they love being here and this is devastating. You know, I am not, I see this need for regulation *[Message ended after reaching 3 minute maximum limit. Caller left second message with name and contact information.]*.

3. (Webpage submission 7/7/18) Below is a link to a 3/5/18 Minn Post article by Peter Callahan. A well written peice that highlights details and under-lying nuances surrounding the minimum wage increase as it pertains to tips. An important read for anyone making disscions about this issue. *[Article referenced is attached at the end of this report.]*

   https://www.minnpost.com/politics-policy/2018/03/amid-another-debate-over-local-minimum-wage-question-seldom-asked-why-not-ge

4. (Webpage submission 7/8/18) I'm a bartender at Eagle Street Grille. I've been in the industry for over 20 years. 15 of those here in St.Paul. This is my chosen career. I love it. I also love this city. I want to see both continue to be the best they can be. That's why I support a tip credit. I want to see this raise in the minimum wage implemented in a way that will help the workers who need it most. Most of us in the bar and restaurant industry already make more than $15/hr in tips alone. We don't need a raise. Forcing this raise on us would result in a nearly 60% increase in labor costs for the largest group of workers in these establishments. Businesses that are already running on razor thin margins. This will result in a combination of cut hours/jobs, higher prices, more work to be done by fewer employees. Many places will simply have to close or relocate. Here we've got two progressive cities side by side. Each striving to raise the standard of living for all of it's citizens. This presents a unique opportunity to see what really works best for all. Minneapolis refused to listen to the bar and restaurant industry and forced through a minimum wage increase with no tip credit. St.Paul has a chance to get it right. I believe we can increase the minimum wage in a responsible and business friendly way while helping those who need it most. A tip credit does that. As a result, the already booming culinary scene here will flourish even more. Which means a healthy economy and more jobs. An increase in the minimum wage this significant, without a tip credit will mean less jobs, workers replaced with iPads, family owned local businesses disappearing from St.Paul and tips replaced with service fees which then become property of the restaurant. Which means workers like me who have always relied on tips to make a good living won't be able to make much more than $15/hr. A tip credit helps these businesses to stay afloat and preserves the tip culture while insuring that all workers make at least $15/hr

5. (Email submission 7/9/18) To The Citizen's League,

   First, thank you all for working on this very important issue on behalf of all of us working folk. Your time is appreciated.

   I have been in the restaurant industry for more than 40 years, hailing originally from Wisconsin, a tip credit state. My first tipped wage was $1.12 1/2 per hour and, since 1977, only recently have I made the same minimum wage as everyone else. I have always made a good living as a tipped employee, well over minimum wage. It seems unlikely that anyone would make this industry a lifelong career if they were only making something hovering around minimum wage. I recognize that there are smaller restaurants in smaller communities than St Paul where this might be true and those individuals do deserve a raise but this is a tiny minority of servers and bartenders across our state. If you have been lead to believe that this is a pervasive problem, I can only think there is another agenda behind this claim.

I have read the assertions of the opposing point of view and it seems very hard to believe that these come from within the restaurants where tipped servers, server assistants, or bartenders actually work. I urge you to talk to those of us that will be profoundly affected by this law. We are already the highest paid workers in the industry. We do not need this raise but the back of the house does. If you force our employers to give us this raise, you will be severely limiting their ability to further raise the wages of anyone else. Labor costs will spike dramatically, wages will stagnate, and employers, especially small, independent, chef-driven restaurants, will be forced to get creative to absorb these costs.

The easiest way to raise revenue to try to stay afloat is moving to a service charge model where the house collects the service charge and distributes it as they see fit or keep it to offset higher labor costs. Or, put another way, wage theft. If I am forced to make $15 an hour I will be taking more than a 50% cut in pay in a job that has been so generous my entire working life.

These are the reasons that I am so confused by, disappointed in, and suspicious of the opposition's claim they are fighting for workers. I've been very active in progressive politics and Labor my whole life and calling my income a "tip penalty" is counter-intuitive to a pro-worker position. I also know that the knee-jerk response that if a policy is good for owners it must then be bad for workers is ridiculous.

Semantics are important and motivation is also important. It's imperative to understand just what really motivates those who, under the guise of a pro-labor movement, would so dramatically harm real workers in such a vital industry. Please ask these questions.

Thank you for your thoughtful consideration,

[redacted]
Sever at WA Frost
Saint Paul

6. (Webpage submission 7/9/18) I feel that a tip credit is necessary to keep St. Paul's thriving restaurant business afloat. If this passes without a tip credit my restaurant The Happy Gnome, will be forced to cut hours from the back of the house and the front. First will be prep cooks and bussers, the very people your looking to protect.

7. (Voicemail submission 7/9/18) Hi there, my name is *[redacted]*. I'm a substitute teacher for Saint Paul schools, Minneapolis schools, and other districts during the school year, and during the summer I work a retail job and it is difficult to pay rent with the $12 wage that I receive and I support a $15 wage for myself for paying rent and other living expenses as a bare minimum, and I also support no tip penalty for that $15 wage for my friends in the restaurant industry also trying to pay for their rent and other living expenses. Thank you.

MINNPOST

Amid another debate over a local minimum wage, a question seldom asked: Why not get rid of tipping altogether?

By Peter Callaghan | 03/05/18

A year ago, the loudest argument in the debate over creating a local minimum wage in Minneapolis was over tips. Now St. Paul is looking to institute a local minimum wage, and again the loudest argument is over tips.

And while those who want all workers to be on the same wage scale — a campaign its backers are calling One Fair Wage — many tipped workers in the restaurant industry fear that without a tip credit, they might lose their tips, their jobs — or both.

The St. Paul City Council is expected to resolve the dispute by this fall. But somewhere beneath the rhetoric is another topic that hasn't generated nearly as much conversation: tip culture itself. That is, the strangeness of having one class of worker — restaurant servers and bartenders — receive so much of their pay not from a boss but directly from the customer.

After all, if tipping is connected to the social ills that opponents of a tip credit argue it does — from a troubling racial history to the encouragement of sexual harassment— how does a system that retains tipping in restaurants address those issues? Shouldn't the argument be over getting rid of the practice of tipping altogether?

The local debate

Tip credits are a way of setting a lower hourly wage for tipped workers with the idea that they'll make up the difference in tips. While Minnesota is one of seven that doesn't have a tip credit in its state minimum wage, a local minimum wage could allow restaurants to require servers to count their tips to make up the difference between the state minimum hourly wage of $9.50 and whatever wage the cities require. Under this system, if tips were not adequate to fill the gap, the employer would be legally obligated to cover that difference.

Restaurant owners and many of their servers argue that the margins in restaurants are so narrow that owners might not be able to remain profitable if they have to start tipped workers at the higher hourly rate. They also say the bigger issue is getting so-called back-of-the-house workers — cooks, dishwashers and other non-tipped staff — higher pay, not servers, many of whom who do plenty well with tips.

In fact, full-service restaurants would likely have to pay servers well above minimum wage in order to keep their best producers, though their pay would likely be somewhat less — though more predictable — than they could make with tips added in.

Opponents of the tip credit, however, say not all servers do as well as those in higher-scale restaurants. They also point to instances where owners do not make up the difference or where tipped workers are assigned to tasks where tips are not generated, yet still get the lower hourly wage.

Arguments pro and con were evident during the debate over Minneapolis' local minimum wage. The politics of the issue made it unlikely council members would support a tip credit, but the fact that Minnesota does not permit a tip credit in the state minimum wage law was the primary reason that city staff recommended that no tip credit be included in the city ordinance.

If St. Paul follows Minneapolis' lead, a move that would put pressure on other cities in the region to follow suit, would a move away from tips ultimately be the result?

The politics of tipping

For backers of One Fair Wage, who oppose a tip credit, the politics of the issue are complicated. While they might wish for a world without restaurant tips, they'd rather not talk about it all that much.

That's because the threat of a loss or reduction of tips is one of the motivating factors for the restaurant workers who've organized in favor of city tip credits. And anything that exacerbates the fear of lost income for restaurant workers hurts local minimum wage backers, a group that in Minnesota has been led by the Restaurant Opportunities Center, $15 Now, and unions such as the Service Employees International Union.

During a presentation in St. Paul in January, Saru Jayaraman, cofounder of the Restaurant Opportunities Center and director of the Food Labor Research Center at the University of California-Berkeley, acknowledged the contradiction in one-wage camp.

While she sees tipping culture as disturbing on many levels, she's also careful not to empower tip-credit proponents, which are led by what she termed "the other NRA" — the National Restaurant Association.

"We've watched that whole idea — that tips are going to go away if wages go up," Jayaraman said. "We've watched the Restaurant Association over the last several years develop that idea and develop the fear around that idea."

She acknowledges that tips aren't going away anytime soon and says there are advantages to moving away from a two-tiered wage system: one that relies on tips for basic pay and one with a single minimum wage supplemented by tips. She points to data that suggests tips do not go down in states without tip credits, and that reports of sexual harassment are lower in the seven states without tip credits.

Other models

At the same time activists have been campaigning to end tip credits, there have also been attempts to try different pay models for restaurants. One of those is to have eateries add a service charge to all tabs. Though the money is retained by the owner, it is often used to increase pay rates for servers who previously received tips and to raise wages for back-of-the-house employees, such as cooks and dishwashers.

“The disadvantage we see is that if service charges are not regulated by law, [and] we have seen unscrupulous employers do unscrupulous things with service charges,” Jayaraman said. “Others make sure the entire 20 percent or 17 percent goes to workers but who provide a very detailed, transparent outline of how that money is spent.”

There’s also the “hospitality included” model. “The same way you walk into Macy’s and you buy something and the cost you pay for that perfume or whatever includes the cost of the person who served you who showed you the different perfumes; … the cost of the rent,” said Jayaraman said. “It includes everything. It’s all included. That’s how other customer-service businesses do it.”

Jayaraman said one of the benefits of the system is that it eliminates the power of customers who think they can harass servers because they control so much of their income. “The customer is not king,” she said.

New York restaurant owner Danny Meyer is perhaps the most prominent practitioner of abolishing tipping. In an op-ed in The Washington Post about the move, he wrote: “We did it to decrease the pay gap between servers and cooks and to provide transparency into the true cost of operating a restaurant,” Meyer wrote. “More significantly, we did it to provide our employees with the professionalism that is standard in most other industries.”

Still, Jayaraman said others who have experimented with non-tipping models ultimately returned to tipping. “We’re not there yet,” she said of any changes to the tipping model.

“We just want to make sure everyone gets a wage. It seems like a very simple first step.”

Dan Swenson-Klatt, who owns Butter Bakery Cafe in south Minneapolis, is a member of an offshoot of ROC that represents restaurant owners called RAISE.

“It’s always been the organization’s stance publicly to say that you don’t have to be there yet but we want to get there,” he said.

Getting rid of tip credits and subminimum wages is the first step. “Removing that credit is their first line of importance in getting to no tips,” he said. “At the heart of RAISE is a culture in a restaurant industry that doesn’t need to have tipping as a way to pay people.”

The Seattle example

Seattle was the first large city in the country to create a higher minimum wage. Because it was first, and because the outcome wasn't certain, the city allowed smaller restaurants — separate restaurants and restaurant groups with fewer than 500 employees —to have a tip credit. But the credit phases out in January of 2020.

The different rules for restaurants in Seattle has resulted in several different models for compensating restaurant workers. Smaller restaurants still eligible for tip credits have made few changes to their tipping practices. But larger groups have been shifting to a service charge model by which a flat charge is added to bills. While some also include tip lines on their credit card slips, others do not. Unlike tips, which by law stay with the server, service charges go to the owner.

The spread of service charges was part of the reason unions and worker groups in Washington pushed for a successful statewide initiative in 2016 to increase the minimum wage and require paid sick leave. The initiative attempts to regulate service charges by requiring disclosure on menus and receipts the percentage of the bill that goes "directly to the employee or employees serving the customer."

And yet, one Seattle restaurant owner who had not yet moved to service charges said the initiative language would be easy to get around. "What if a restaurant, which is currently paying sick days, health insurance and meals on top of wages just says 'all service charges go to the benefit of the servers' and then uses that money to make up for tips, but also to cover those expenses, thus lowering the employee benefit costs per hour," the owner said.

Instituting a service charge model in Minnesota would also not be without complications. Joel O'Malley, a labor and employment law attorney with the firm Nilan Johnson Lewis, said state administrative code allows a restaurant to impose a service charge. But it also requires that the restaurant must inform the customer on menus and bills that "the charge is not a gratuity."

"If the restaurant wants to keep the service charge and do with it what it wants or distribute it the way it wants to … the service charge has to meet certain statutory requirements," O'Malley said. The purpose is to inform customers that the money "is being kept by the restaurant and doesn't belong to the servers themselves."

Right now, the state even dictates the size of the font to be used to make such declarations. But what if — as in Seattle — a restaurant would simply argue that the money flows to the servers because it is used for pay and benefits?

O'Malley said such questions fall into a gray area, since the section of law has never been litigated. "There's been no testing like you would expect in other areas of law of what sorts of language you can get away with and how far you can push it."

A long way into the future

Because the phase-in period for the Minneapolis wage is so lengthy — employers with fewer than 100 workers won't have to pay $15 until the summer of 2024 — there is less incentive to change tipping models. A few restaurants have moved to non-tipping pay models, though mostly because of philosophical, not economic, reasons.

Danny Schwartzman, who owns Common Roots Cafe in the Wedge neighborhood of Minneapolis, is active in the Main Street Alliance, which advocates for progressive economic policies. Like Swenson-Klatt, he made the switch to non-tipped employees a year ago. "I just decided to make the leap and go fully tip free," Schwartzman said. "It was a scary thing but for me it was the right thing to do."

He increased prices about 15 percent, with the intent of paying his employees at least $15 an hour, keeping health benefits and vacation and still making the business work.

Swenson-Klatt had been a teacher before deciding to start Butter Bakery Cafe 12 years ago in his Kingfield neighborhood of Minneapolis, and he partners with Nicollet Square and Beacon Interfaith Housing to train and employ young adults transitioning from foster care and homelessness.

He said it was natural for him to consider issues such as higher pay and benefits for lower-paid workers. But he still needs to make a profit. Working with his employees, Swenson-Klatt calculated that tips provided about 10 to 13 percent of his workers' pay, with more going to counter workers than to cooks, bakers and dishwashers. That information was what he used to calculate an increase in prices. Despite some confusion, customers have been supportive.

As he reaches the first anniversary of the change, Swenson-Klatt now realizes he fell a little short in calculating the pricing he needed to charge for food and drinks, and will make some price adjustments.

"We got close, but in the end we came up just a wee bit short; it just wasn't the right set of numbers," he said. "In the 12 years I've been doing this I have always told the staff there are points in the life of this business that it's worth risking a bit of a loss to get to the next place."

In an industry where the norm is low margins, Schwartzman said there's a lot of motivation to keep costs as low as possible. "That's the model and there are a lot of good people within it who are trying to do something different," he said. "But that's what everyone is competing against. In that reality, changing anything is certainly noticeable. Big picture: It would be great to see an industry where we're competing on a level playing field and everyone is pricing-in a basic standard of living for employees. But that's seeing a long way into the future."

Both Swenson-Klatt and Schwartzman acknowledge that their counter-service restaurants present different, somewhat simpler, challenges than those that would face the owner of a full-service restaurant.

Indeed, only a few table service restaurants in the Twin Cities have tried — and at least three have returned to traditional tipping system. The sibling restaurants Upton 43 and Victory 44 tried a hospitality-included model in 2016 but reverted to tipping only a few months later. More recently, Bardo restaurant opened with a service charge model, but then switched to a plus-tip model.

The no-tip message on display at the counter in the Butter Bakery Cafe. MinnPost photo by Peter Callaghan

"Though this original model was ultimately quite effective and most workable for the restaurant and its bottom line, we considered it in the best interest of our employees and guests to change to more socially standardized system," wrote Bardo general manager Morgan Hawley.

Schwartzman said he'd like to see customers who agree his values make dining decisions with that in mind, even if he knows that might be wishful thinking. "That unfortunately isn't what people think about when they think about going out to eat."

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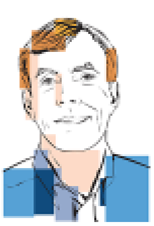

Peter Callaghan
Peter Callaghan covers state government for MinnPost. Follow him on Twitter or email him at pcallaghan(at)minnpost(dot)com.

MINNESOTA COUNCIL OF NONPROFITS

June 29, 2018

Dear Pahoua Yang Hoffman and Angelica Klebsch,

In a couple of meetings with committee members off-line, I continue to hear concerns about how Saint Paul will take into consideration program participants who have a disability. Many of the organizations expressing this concern are nonprofits, so it's an issue I've worked on closely. I wanted to provide some clarify on exactly what is in the Minneapolis ordinance and what we would expect to see for Saint Paul to ensure we do not preempt state law.

In Minneapolis, there are two separate ways that an organization's disabled program participants are preempted from the City minimum wage ordinance. I've also provided one area where this could be thoughtfully expanded in Saint Paul.

1) If the organization is certified by the State or Federal Department of Labor for the purpose of paying a subminimum wage (under the MN Fair Labor Standards Act) they are exempt under the Minneapolis ordinance.

The specific language provides this exemptions for "Providers with certificates issued by the United States Department of Labor or the Minnesota Department of Labor and Industry for purposes of subminimum wage payments pursuant to Minnesota Statutes, Section 177.28 and Minnesota Rules part 5200.0030, but only to the extent of the workers specifically covered by the subminimum wage certificate."

In other words, if exempted under the MN FLSA (i.e. the state minimum wage), an organization is automatically exempted under the Minneapolis minimum wage and will also be exempted from any Saint Paul minimum wage as well.

2) Employees classified as extended employment program workers as defined in Minnesota Rules part 3300.2005, subpart 18 and participating in Minnesota Statutes, Section 268A.15 extended employment program, are also exempt. These "extended employment programs" are listed here.

3) Saint Paul should go a bit further than Minneapolis and extend its exemption for those who are disabled and receiving services under Minnesota Statues, Section 252.41 and regulated under Minnesota Statutes 245D.03 (c)(4)(5)(6) and (7).

This statue covers day training and habilitation services and related employment services for adults with disabilities and is broader than the extremely narrow extended employment program in

268A.15. To be specific, this would capture those nonprofit organizations that choose to pay the state minimum/prevailing wage instead of the subminimum wage.

This letter and proposal comes with the support of Bob Brick, President & CEO of Ally People Solutions, fellow member of this committee. Ally People Solutions provides employment services and life skills training with people with intellectual and mental health disabilities. They, along with other nonprofit organizations, have chosen not to be certified by the State or Federal Department of Labor for the purpose of paying a subminimum wage and are not under the narrow extended employment program under Section 268A.15.

Of course, these organizations must comply with all laws. For instance, it is unlawful to discriminate against any employee in the terms or conditions of employment on the basis of disability.

Minnesota Council of Nonprofits has over 2,100 nonprofit members across Minnesota. We look forward to continued partnerships around employment policies that take into consideration the unique circumstances of nonprofit organizations while supporting the communities nonprofits partner with every day.

Sincerely,

Rebecca Lucero

Rebecca Lucero
Public Policy Director
Minnesota Council of Nonprofits

From: Matt Gray
To: Citizens League
Subject: Input
Date: Sunday, July 8, 2018 11:11:56 PM
Attachments: Screen Shot 2018-07-08 at 7.33.38 PM.png
Standard Occupational Classification System from the Bureau of Labor Statistics .pdf

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The Department of Employment and Economic Development (DEED) and the Bureau of Labor Statistics (BLS) utilize the Standard Occupational Classification (SOC) System to categorize job positions. The SOC System is a federal statistical standard used by federal agencies to classify workers into occupational categories for the purpose of collecting, calculating, or disseminating data. I have attached the link below to the 2018 Standard Occupational Classification System listed on the BLS website. This system includes: occupations and corresponding descriptions, job codes, and examples of occupations within the major 23 groups that make up the SOC system.

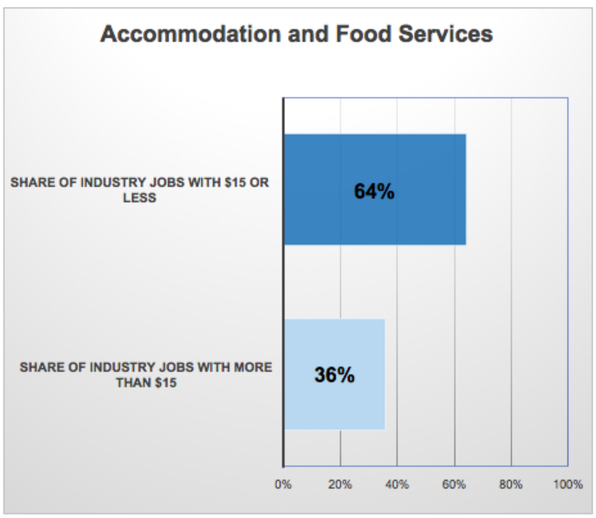
https://www.bls.gov/soc/2018/major_groups.htm#35-0000

I looked into the numbers presented by DEED regarding the share of jobs in pay bracket by industry (2017), specifically the share of jobs making less and more than $15 per hour for the Accommodation and Food Services classification. The SOC's occupational group, Food Preparation and Serving Related Occupations (35-0000), makes up a large portion of the occupations included in DEED's Accommodations and Food Services classification.

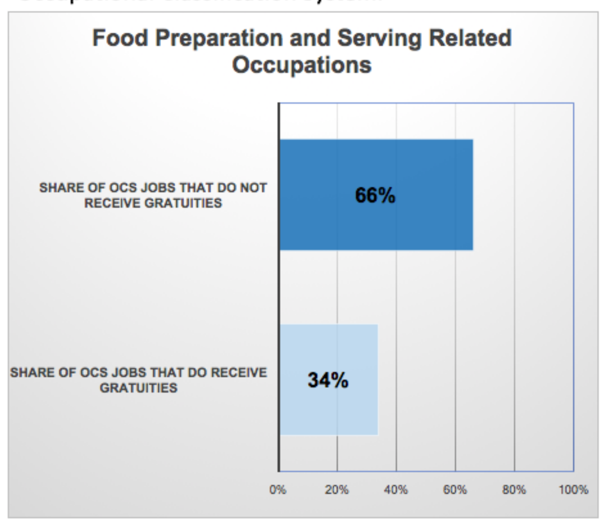
There are 44 example occupations within the SOC's Food Preparation and Serving Related Occupations group. I organized these examples into two categories: occupations that do not traditionally receive gratuities and occupations that do receive gratuities (**see Appendix**).

Of the 44 occupational examples included in Food Preparation and Serving Related Occupations group, 66% do not traditionally receive gratuities (28 positions) and 34% do traditionally receive gratuities (15 positions). These percentages correlate to DEED's statistics for the Accommodation and Food Services group, which shows 64% of jobs make $15 or less and 36% of jobs make more than $15. Attached below are two charts comparing this data. These similarities present a likelihood that the 64% of industry jobs making $15 or less are occupations that do not traditionally receive gratuities, and the 36% of industry jobs making more than $15 are occupations that do traditionally receive gratuities. Therefore, this data suggests that tipped workers are already making over $15/hr.

The graph below was obtained from Supplement 06-12-2018 C - Figure 1: Share of Jobs in Pay Bracket by Industry (2017).



The graph below was created based on the information provided by the US Department of Labor, Bureau of Labor Statistics, 2018 Standard Occupational Classification System.



Appendix:

Standard Occupational Classification System from the Bureau of Labor Statistics

Job Examples Assigned to the Food Preparation and Serving Related Occupations Group			
Occupations that DO NOT Receive Gratuities		Occupations that DO Receive Gratuities	
Job	Job Code	Job	Job Code
Executive Chef	35-1011	Barkeep	35-3011
Pastry Chef	35-1011	Mixologist	35-3011
Sous Chef	35-1011	Taproom Attendant	35-3011
Kitchen Supervisor	35-1012	Barista	35-3023
Fast Food Fry Cook	35-2011	Cocktail Server	35-3031
Camp Cook	35-2012	Dinning Car Server	35-3031
Galley Cook	35-2012	Wine Steward	35-3031
Mess Cook	35-2012	Boat Hop	35-3041
School Cook	35-2012	Room Service Food Server	35-3041
Certified Personal Chef	35-2013	Bar Back	35-9011
Private Chef	35-2013	Busser	35-9011
Banquet Cook	35-2014	Dining Room Host	35-9031
Line Cook	35-2014	Maitre D'	35-9031
Saucier	35-2014	Banquet Supervisor	35-1012
Griddle Cook	35-2015	Bar Manager	35-1012
Falafel Cart Cook	35-2019		
Fraternity House Cook	35-2019		
Fruit and Vegetable Parer	35-2021		
Salad Maker	35-2021		
Sandwich Maker	35-2021		
Cafeteria Server	35-2023		
Ice Cream Server	35-2023		
Mess Attendant	35-2023		
Snack Bar Attendant	35-2023		
Hospital Food Service Worker	35-3041		
Lunchroom Attendant	35-9011		
Dish Room Worker	35-9021		
Silverware Cleaner	35-9021		
Kitchen Steward	35-9099		
Total # of Occupations	29	Total # of Occupations	15

Source: US Department of Labor, Bureau of Labor Statistics, 2018 Standard Occupational Classification System, https://www.bls.gov/soc/2018/major_groups.htm#35-0000