

**Restoring New Jersey's Minimum Wage for Tipped Workers:
Experiences from Other States and Cities**

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A growing number of groups across New Jersey have called for restoring minimum wage protections for tipped workers – protections that the state has not had since 1969. The overwhelming majority of other states and even some cities have minimum wages for tipped workers. The experience of those states and cities has been that higher minimum wages for tipped workers have boosted pay for this workforce, but have not harmed business growth or led to job losses in industries such as restaurants that employ tipped workers. This short report provides background on this issue and summarizes the evidence available from other states and cities.

Background

In today's faltering economy, all of New Jersey's low-income workers need a raise to keep up with the skyrocketing cost of gas and food. But tipped workers are especially squeezed. Unlike the overwhelming majority of other states, New Jersey has no minimum wage for tipped workers – allowing them to be paid entirely in tips under state law. Most New Jersey workers are also covered by the federal minimum wage, which does establish a minimum wage for tipped workers. However, the federal minimum wage for tipped workers has been frozen at a meager \$2.13 for over 17 years.¹ As a result, pay for tipped workers across the state – everyone from the waitress at the local diner, to the parking garage attendant, to the car wash worker – has fallen farther and farther behind the cost of living.

Making matters worse, there is growing evidence that customers who are themselves struggling are cutting back on the tips that they leave as the economy worsens.² Tipped workers desperately need a boost in the minimum wage – one of the only proven ways to raise low-income workers' take-home pay and fight poverty.³

New Jersey is dramatically out of step with the rest of the nation in not having any minimum wage at all for tipped workers under its state minimum wage law. The overwhelming majority of states have their own minimum wages for tipped workers. And since Washington froze the federal minimum wage for tipped workers at \$2.13, most states have raised the minimum wage for tipped workers whenever they have raised the regular minimum wage. Moreover, even congressional leaders are finally proposing to unfreeze the federal minimum wage for tipped workers and restore it to its historic level of 60% of the full minimum wage. Unless New Jersey acts, it will remain virtually alone in providing no protection for this growing, low-income work force.

Until 1969, New Jersey, like most states, had a minimum wage for tipped workers, mandated by a New Jersey Department of Labor regulation. However, a New Jersey appellate court reviewed this

regulation in 1969 and found that the state's minimum wage statute did not authorize it – effectively repealing New Jersey's minimum wage for tipped workers.⁴ Because the legislature has failed to amend the state law to restore tipped worker protections, New Jersey's tipped workers have had no state minimum wage ever since.

Experiences of Other States and Cities

The experiences of other states and cities that have higher minimum wages for tipped workers dispel any concern that restoring New Jersey's minimum wage protections for tipped workers would harm New Jersey's restaurant industry or other industries that employ these workers. The experiences of other states and cities make clear that a higher minimum wage for tipped workers – like a higher minimum wage in general – is simply not a major factor, one way or the other, in the economic health of industries that employ tipped workers. Instead, growth in these industries is influenced far more by broader trends in the economy – not by whether they must pay a little more to their lowest-wage staff.

- Twenty-one states have for many years had minimum wages for tipped workers that are higher than the federal level of \$2.13. These include seven states – Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington – that require all tipped workers to be paid the *full minimum wage*. All of the evidence shows that this higher minimum wage has not been a significant factor one way or the other on business growth in those states.
- For example, a 2006 study by the Fiscal Policy Institute examined job growth between 1998 and 2003 in the ten states and the District of Columbia that had minimum wages higher than the federal level at that time – Alaska, California, Connecticut, Delaware, Hawaii, Massachusetts, Oregon, Rhode Island, Vermont, and Washington.⁵ The study compared job growth in those states with the other 40 states that did not have higher minimum wages. All ten of the high minimum wage states analyzed in the study also had tipped worker minimum wages higher than the federal \$2.13 level. In fact, four of them – Alaska, California, Oregon, and Washington – even guarantee tipped workers the full minimum wage, and another (Hawaii) allows them to be paid just 25 cents less than the full minimum wage. The study found that jobs at small businesses in the ten high minimum wage states actually grew faster than those in the 40 low minimum wage states. This highlights how job growth is driven overwhelmingly by other factors in a state's economy – not by how high or low the state's minimum wage is.
- In 2006, economist Paul Wolfson at Dartmouth's Tuck Business School conducted a similar study using federal Current Population Survey data focusing in particular on the restaurant industry – one of the largest tipped industries. His study examined the 17 states and the District of Columbia that had raised their minimum wages above the federal level as of 2005. Again, 16 of those 18 jurisdictions – California, Connecticut, Delaware, D.C., Florida, Hawaii, Illinois, Maine, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, Washington, Wisconsin – had minimum wages for tipped workers higher than the federal \$2.13 level. The study found that raising the minimum wage in those states had boosted pay in the restaurant industry in particular, and found no evidence that it had adversely affected restaurant employment.⁶

- Perhaps the most direct evidence is provided by the experience of the restaurant industry in San Francisco, which raised the minimum wage from \$6.75 to \$8.50 in 2004 and which requires that tipped workers to be paid the full minimum wage. When that city's minimum wage law took effect, tipped workers received a raise of \$1.75 per hour – a substantial increase. A University of California study of the city's restaurant industry found that it did not result in increased restaurant closures, job loss, or even substantial price increases.⁷
- In fact, the University of California study found that the increase may have helped stabilize the restaurant industry, since employee job tenure and employment of full-time employees actually increased at fast food restaurants, and employment of tipped workers increased at table-service restaurants.⁸ Note also that when San Francisco implemented this minimum wage increase, predictions that restaurants would substitute a service charge for tipping did not materialize.
- Even the National Restaurant Association's own analysis of industry trends projects that the four leading states in restaurant job growth over the next decade will all be states that mandate high minimum wages for tipped workers: Arizona (\$3.90), Florida (\$3.77), Nevada (\$6.85), and Alaska (\$7.15).⁹
- All of this evidence underscores that the minimum wage in general – and the minimum wage for tipped workers in particular – is simply not a major factor, one way or the other, in the economic health of the restaurant industry and other low-wage industries. Instead, growth in these industries is influenced far more by broader trends in the economy – not by whether they must pay somewhat more to their low-wage staff.

New Jersey therefore need not fear that it will hurt its restaurant industry or its economy by finally joining most of the rest of the states in restoring strong minimum wage protections for tipped workers. While no employer welcomes a minimum wage increase, experiences nationally show that higher minimum wages for tipped workers do not harm business growth or employment levels.

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¹ See WILLIAM G. WHITTAKER, CONGRESSIONAL RESEARCH SERVICE REPORT FOR CONGRESS, THE TIP CREDIT PROVISIONS OF THE FAIR LABOR STANDARDS ACT 3 (2006), available at http://assets.opencrs.com/rpts/RL33348_20060324.pdf.

² See, e.g., Nichole Aksamit, *Servers Say Diners Are Leaving Smaller Tips*, OMAHA WORLD-HERALD, Sep. 1, 2008, available at http://www.omaha.com/index.php?u_page=3945&u_sid=10421072. Lesley Lane, *Area Servers Sound Off on Patron Tipping Practices*, GREENWOOD (S.C.) TODAY, available at <http://www.gwdtoday.com/default.asp?sourceid=&smenu=1&twindow=&mad=&sdetail=8699&wpage=1&keyword=&sidate=&ccat=&ccatm=&restate=&restatus=&reoption=&retype=&repmin=&repmax=&rebed=&rebath=&subname=&pform=&sc=2071&hn=gwdtoday&he=.com>; Daniel Victor, *For Restaurant Workers, Economy Eats Away at Tips*, HARRISBURG (PENN.) PATRIOT-NEWS, Aug. 3, 2008, available at <http://www.pennlive.com/news/patriotnews/index.ssf?/base/news/1217714115246030.xml&coll=1>; Erinn Connor, *Area Service Workers Notice a Dip in Their Tips*, GREEN BAY (WIS.) PRESS GAZETTE, Aug. 2, 2008, available at <http://www.greenbaypressgazette.com/apps/pbcs.dll/article?AID=/20080802/GPG03/808020575/1247>; Crystal Walker,

Restaurant Workers Feel Economic Pinch, WACH (S.C.), June 28, 2008, available at http://www.wach.com/news/news_story.aspx?id=151610; Dana Knight, *Tips Shrink with Economy*, CINCINNATI ENQUIRER, Mar. 24, 2008, available at <http://news.enquirer.com/apps/pbcs.dll/article?AID=/20080324/BIZ/303240006/1076> (focusing on restaurant workers and beauty workers).

³ LIANA FOX, MINIMUM WAGE TRENDS: UNDERSTANDING PAST AND CONTEMPORARY RESEARCH (2006), <http://www.epi.org/content.cfm/bp178> (explaining recent research on the economic effects of raising the minimum wage). See also ECONOMIC POLICY INSTITUTE, HUNDREDS OF ECONOMISTS SAY: RAISE THE MINIMUM WAGE (2006), http://www.epi.org/minwage/epi_minimum_wage_2006.pdf (“We believe that a modest increase in the minimum wage would improve the well-being of low-wage workers and would not have the adverse effects that critics have claimed.”)

⁴ *New Jersey State Hotel-Motel Ass'n v. Male*, 105 N.J. Super. 174, 251 A.2d 466 (A.D. 1969)

⁵ FISCAL POLICY INSTITUTE, STATES WITH MINIMUM WAGES ABOVE THE FEDERAL LEVEL HAVE HAD FASTER SMALL BUSINESS AND RETAIL JOB GROWTH (March 30, 2006), <http://fiscalpolicy.org/FPISmallBusinessMinWage.pdf>.

⁶ See PAUL WOLFSON, STATE MINIMUM WAGE: A POLICY THAT WORKS (2006), <http://www.epi.org/content.cfm/bp176> (documenting the benefits for workers when states raised their minimum wages).

⁷ ARINDRAJIT DUBE, ET AL, THE ECONOMIC IMPACT OF A CITYWIDE MINIMUM WAGE (3d Rev. 2007), <http://repositories.cdlib.org/iir/iirwps/iirwps-111-05/> (analyzing the effects of San Francisco’s citywide minimum wage with a particular focus on the restaurant industry).

⁸ *Id.*

⁹ National Restaurant Association, “Restaurant Industry in All 50 States to Grow Sales, Add Jobs in 2008 and Beyond,” Dec. 12, 2007, at <http://www.restaurant.org/pressroom/pressrelease.cfm?ID=1536>. See also Press Release, *Darden Sees Little Impact from Minimum Wage Hike*, Dec. 20, 2006 (on file with NELP).