



Testimony of Laura Huizar

National Employment Law Project

Increasing the Minimum Wage in Minneapolis to \$15 Per Hour

Testimony Concerning File No. 17-00723, Municipal Minimum Wage Ordinance

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Across the country, our staff are recognized as policy experts in areas such as unemployment insurance, wage and hour enforcement, and, as is relevant for today's hearing, the minimum wage. We have worked with dozens of city councils and state legislatures across the country and with the U.S. Congress on measures to boost pay for low-wage workers. NELP has worked with most of the cities in the United States that have adopted higher city minimum wages in recent years and is familiar with their economic experiences.

NELP testifies today in support of increasing Minneapolis's minimum wage to \$15 per hour, and we strongly urge the City Council to reject proposals to exclude tipped workers in the City from the full benefits of the proposed minimum wage increase. Minnesota is one of seven states that guarantee tipped workers what has come to be termed as One Fair Wage.¹ Under a One Fair Wage system, tipped workers are entitled to the same minimum wage as all other workers without a reduction in the cash wage paid by the employer based on tips. Minnesota abolished a lower minimum wage for tipped workers in 1984 and has resisted all attempts to bring back a subminimum wage for tipped workers for over three decades.

Growing numbers of U.S. states and cities in just the last few years have adopted a minimum wage of \$15 per hour. California and New York approved a statewide \$15 minimum wage in 2016. SeaTac, Washington, which was the first city to do so, approved a \$15 minimum wage in 2013. San Francisco Mayor Ed Lee brokered an agreement between labor and business to place a \$15 minimum wage on the November 2014 ballot, which the voters overwhelmingly approved, and the Los Angeles city council approved a \$15 minimum wage in 2015.

The most rigorous modern research on the impact of raising minimum wages shows that raises increase worker earnings with negligible adverse impact on employment levels. As more and more U.S. cities enact local minimum wages, the research has similarly shown that such local measures have no adverse effect on jobs, and implementation of higher local wages has proven manageable for employers. The benefits for low-wage workers and their families of higher wages have been very significant, raising wages in the face of broader economic trends that have led to stagnant and falling wages across the bottom of our economy, reducing economic hardship, lifting workers out of poverty, and improving other life outcomes.

Low paying industries are disproportionately fueling job growth today, with more and more adults spending their careers in these positions. Raising the wage floor, which has badly eroded over the decades even as corporate profits have skyrocketed, is urgently needed to ensure that local economies can rely on workers' spending power to recover and that the growing numbers of workers relying on low wages to make ends meet can contribute fully to this recovery.

Ensuring that all workers, including tipped workers, are entitled to the same base minimum wage regardless of tips received is a crucial part of any minimum wage increase that seeks to make a significant difference for low-wage workers. The typical tipped worker in Minneapolis struggles on barely more than the minimum wage and faces significant economic insecurity. The complex subminimum wage system is difficult to enforce and results in widespread noncompliance. Workers who are forced to rely mainly on tips as income, rather than on a stable base cash wage paid directly by their employer, face wide fluctuations in paychecks as tips vary from season to season, shift to shift, and customer to customer. The experiences of cities that have already raised their minimum wage to \$15 and require that tipped workers receive the full minimum wage directly from their employer show that eliminating the subminimum wage in Minneapolis will not lead to the widespread elimination of tipping or a significant reduction in tipping rates.

Effective enforcement of any local minimum wage law is also necessary to ensure that workers receive the wage increases they are entitled to under local law, and granting workers a private right of action through ordinance is a key way to advance effective enforcement. NELP strongly supports the inclusion of a private right of action in the bill under consideration today.

Finally, raising the minimum wage across the country, including in Minneapolis, would go a long way toward restoring the minimum wage to where it was at its peak, when unemployment rates were low, the minimum wage reflected much higher purchasing power, and the minimum wage was equal to half of what the median worker earned.

Who Would Benefit From A Higher Minimum Wage in Minneapolis?

As the bill under consideration today states, an increase in the Minneapolis minimum wage to \$15 per hour would benefit 23 percent of workers in the City, or approximately 71,000 people.² Workers in Minneapolis simply cannot make ends meet on the state's minimum wage. The bill explains that a full-time worker earning the state's minimum wage of \$9.50 per hour still makes an annual salary that is about \$5,000 below the poverty level for a family of four.³ Moreover, the Economic Policy Institute's Family Budget Calculator estimates that a single worker with no children who works full-time needed \$13.10 per hour in 2014 to make ends meet, and a single worker with one child working full-time needed about \$26 per hour in 2014 to afford the basics.⁴ The cost of living in the City is "among the highest in the state."⁵

The Growing List of Cities and States Enacting Minimum Wage Increases Reflects a Deepening Wage Crisis and Popular Support for Bold Change

The U.S. economy has seen steady growth and improvement in the unemployment rate in recent years, but wages have been flat or declining for much of the labor force.⁶ Averaged across all occupations, real median hourly wages declined by 4 percent from 2009 to 2014, and lower-wage occupations experienced greater declines in their real wages than did higher-wage occupations.⁷ Moreover, job growth continues to be unbalanced, with especially pronounced job gains in lower-wage industries and slow growth in mid-wage industries. The worsening prospects and opportunities for low-wage workers have prompted a record number of cities, counties, and states to enact higher minimum wage rates for their residents.

Since November 2012, about 19 million workers throughout the country have earned wage increases through a combination of states and cities raising their minimum wage rates; executive orders by city, state and federal leaders; and individual companies raising their pay scales.⁸ Of those workers, nearly 10 million will receive gradual raises to \$15 per hour.⁹ More than forty cities and counties and more than forty states have raised their minimum wage since 2012.¹⁰

As the Fight for \$15 movement gathers strength, advocates in a rapidly growing list of localities and states are calling for a \$15 minimum wage. Los Angeles, San Francisco, Seattle, SeaTac, Washington, and Emeryville, California, have already enacted a \$15 minimum wage for all workers.¹¹ New York and California approved a statewide \$15 minimum wage in 2016.¹² More states are also now considering legislative proposals and/or ballot initiatives that would raise the statewide minimum wage to \$15, including New Jersey, Maryland, Nevada, and Massachusetts.¹³

Polling data shows that approximately two out of three individuals support a \$15 minimum wage, and support among low-wage workers is even higher.¹⁴ A poll of low-wage workers commissioned by NELP found that approximately 75 percent of low-wage workers support a \$15

minimum wage and a union.¹⁵ It also found that 69 percent of unregistered respondents would register to vote if there were a presidential candidate who supported raising the minimum wage to \$15 and making it easier for workers to join a union, and 65 percent of registered voters reported that they are more likely to vote if a candidate supports \$15 and a union for all workers.¹⁶ In Minneapolis, as part of a campaign in 2016 to amend the City's charter in order to adopt a citywide \$15 minimum wage, advocates gathered over 8,000 valid signatures in support of the initiative, which significantly exceeded the required minimum,¹⁷ and a poll conducted by Patinkin Research Strategies found that 68 percent of likely voters in Minneapolis would have voted yes to approve adding a \$15 minimum wage in the City's charter.¹⁸

The trend in localities and states pushing for higher minimum wage rates will likely continue to intensify as wages continue to decline, inequality remains at historically high levels, and the federal government fails to take bold action to ensure that hard-working individuals can make ends meet.

Higher Wages from Minimum Wage Increases Have Very Significant Beneficial Effects for Low-Income Individuals and Households

The higher incomes that result from minimum wage increases have very direct and tangible impacts on the lives of the workers affected and their families. Significant increases in minimum wages have proven an effective strategy for addressing declining wages and opportunity for low-wage workers by raising pay broadly across the bottom of the city economy. For example, over the decade that San Francisco's strong minimum wage has been in effect, it has raised pay by more than \$1.2 billion for more than 55,000 workers, and it has permanently raised citywide pay rates for the bottom 10 percent of the labor force.¹⁹ The widely recognized success of San Francisco's minimum wage led Mayor Ed Lee to broker an agreement with business and labor to place an increase to \$15 on the November 2014 ballot, which the voters overwhelmingly approved.

The higher pay resulting from minimum wage increases translates to a range of other important improvements in the lives of struggling low-paid workers and their households. For workers with the very lowest incomes, studies show that minimum wage increases lift workers and their families out of poverty.²⁰ Similarly, higher incomes for low-wage workers and their households translate to improved educational attainment and health. For example, a study by the National Institutes of Health determined that "[a]n additional \$4000 per year for the poorest households increases educational attainment by one year at age 21."²¹ Another study found that raising California's minimum wage to \$13 per hour by 2017 "would significantly benefit health and well-being."²² It stated that "Californians would experience fewer chronic diseases and disabilities; less hunger, smoking and obesity; and lower rates of depression and bipolar illness."²³ Moreover, "[i]n the long run, raising the minimum wage would prevent the premature deaths of hundreds of lower-income Californians each year."²⁴ Yet another study found that high dropout rates among low-income children can be linked to parents' low-wage jobs and that youth in low-income families have a greater likelihood of experiencing health problems.²⁵

The Most Rigorous Research Shows That Higher Minimum Wages Raise Worker Incomes without Reducing Employment

The most rigorous research over the past 20 years—examining scores of state and local minimum wage increases across the U.S.—demonstrates that these increases have raised workers' incomes *without* reducing employment. This substantial weight of scholarly evidence reflects a

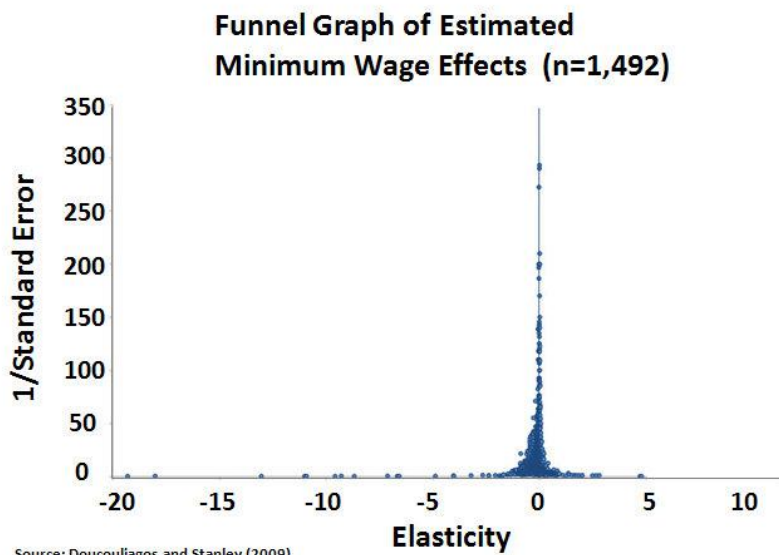
significant shift in the views of the economics profession, away from a former view that higher minimum wages cost jobs. As Bloomberg News summarized in 2012:

[A] wave of new economic research is disproving those arguments about job losses and youth employment. Previous studies tended not to control for regional economic trends that were already affecting employment levels, such as a manufacturing-dependent state that was shedding jobs. The new research looks at micro-level employment patterns for a more accurate employment picture. The studies find minimum-wage increases even provide an economic boost, albeit a small one, as strapped workers immediately spend their raises.²⁶

The most sophisticated of the new wave of minimum wage studies, “Minimum Wage Effects Across State Borders,” was published in 2010 by economists at the Universities of California, Massachusetts, and North Carolina in the prestigious *Review of Economics and Statistics*.²⁷ That study carefully analyzed minimum wage impacts across state borders by comparing employment patterns in more than 250 pairs of neighboring counties in the U.S. that had different minimum wage rates between 1990 and 2006. The study’s innovative approach of comparing neighboring counties on either side of a state line is generally recognized as especially effective at isolating the true impact of minimum wage differences, since neighboring counties otherwise tend to have very similar economic conditions, and the study has been lauded as state-of-the-art by the nation’s top labor economists, such as Harvard’s Lawrence Katz, MIT’s David Autor, and MIT’s Michael Greenstone. (By contrast, studies often cited by the opponents of raising the minimum wage that compare one state to another—and especially those comparing states in different regions of the U.S.—cannot as effectively isolate the impact of the minimum wage, because different states face different economic conditions, of which varying minimum wage rates is but one.)

Consistent with a long line of similar research, the Dube, Lester, and Reich study found no difference in job growth rates in the data from the 250 pairs of neighboring counties—such as Washington State’s Spokane County compared with Idaho’s Kootenai County where the minimum wage was substantially lower—and found no evidence that higher minimum wages harmed states’ competitiveness by pushing businesses across the state line.²⁸

However, it is not simply individual state-of-the-art studies, but the whole body of the most rigorous modern research on the minimum wage that now indicates that higher minimum wages have had little impact on employment levels. This is most clearly demonstrated by several recent “meta-studies” surveying research in the field. For example, a meta-study of 64 studies of the impact of minimum wage increases published in the *British Journal of Industrial Relations* in 2009 shows that the bulk of the studies find close to no impact on employment.²⁹ This is vividly illustrated by a graph from the meta-study showing the results clustered around zero:



Another recent meta-study by Paul Wolfson and Dale Belman of the minimum wage literature demonstrates similar results.³⁰

Further underscoring how minimum wage increases are simply not a major factor affecting job growth, economists at the Center for Economic & Policy Research and Goldman Sachs have noted that the U.S. states that have raised their minimum wages above the minimal federal level are enjoying stronger job growth than those that have not.³¹

The Evidence from Cities That Have Adopted Significantly Higher Local Minimum Wages Similarly Shows That They Have Not Cost Jobs and That Implementation Has Proven Manageable for Employers

The experiences of cities with higher local minimum wages—and the most rigorous economic research on the impact of city wage laws—have shown that they have raised wages broadly without slowing job growth or hurting local employers.

The two U.S. cities that have had higher local minimum wages for the longest period are San Francisco, California, and Santa Fe, New Mexico. Both adopted significantly higher local minimum wages in 2003 and the impact of the minimum wages has been the subject of sophisticated economic impact studies. In San Francisco, a 2007 study by University of California researchers gathered employment and hours data from restaurants in San Francisco as well as from surrounding counties that were not covered by the higher minimum wage and found that the higher wage had not led San Francisco employers to reduce either their employment levels or employee hours worked.³² A follow-up 2014 study examined the combined impact on San Francisco employers of the city’s minimum wage ordinance and of other city compensation mandates that cumulatively raised employment costs 80 percent above the level of the federal minimum wage. The study again found no adverse effect on employment levels or hours, and found that food service jobs—the sector most heavily affected—actually grew about 17 percent faster in San Francisco than in surrounding counties during that period.³³

In Santa Fe, a similar 2006 study conducted after the city raised its minimum wage 65 percent above the state rate compared job growth in Santa Fe with that in Albuquerque (which at that time did not have a higher city minimum wage). It determined that “[o]verall, . . . the living wage had no discernible impact on employment per firm, and that Santa Fe actually did better than Albuquerque in terms of employment changes.”³⁴

A sophisticated 2011 study of higher minimum wages in San Francisco, Santa Fe, and Washington, D.C., compared employment impacts to control groups in surrounding suburbs and cities. It similarly found that “[t]he results for fast food, food services, retail, and low-wage establishments . . . support the view that citywide minimum wages can raise the earnings of low-wage workers, without a discernible impact on their employment”³⁵

And most recently, a study released earlier this week and conducted by the University of California at Berkeley’s Institute for Research on Labor and Employment found that Seattle’s \$15 minimum wage law has “boosted pay for restaurant workers without costing jobs.”³⁶

Low Wages Paid By Large, Profitable Employers Present a Significant Cost to the Public by Forcing Workers to Rely on Public Assistance in Order to Afford Basic Necessities

Nationally, nearly three quarters (73 percent) of enrollments in America’s major public benefits programs are from working families. With wages that leave their earnings below subsistence levels, these workers must rely on additional support from programs like the Supplemental Nutrition Assistance Program (SNAP), Medicaid, Children’s Health Insurance Programs, and the Earned Income Tax Credit (EITC) in order to afford basics like food, housing, and health care.

Data available for some of the largest employers in the retail and fast-food industries indicate that the low wages paid by profitable companies like Walmart and McDonald’s entail substantial costs for the public, as a whole.

A 2013 report from the Democratic Staff of the U.S. House Committee on Education and the Workforce estimates that low wages paid at a single Walmart supercenter cost taxpayers between \$900,000 and \$1.7 million on average per year.³⁷ Similarly, a 2013 study from the University of California-Berkeley found that the low wages paid by companies in the fast-food industry cost taxpayers an average of \$7 billion per year.³⁸ A companion study from NELP found that the bulk of these costs stem from the ten largest fast-food chains, which account for an estimated \$3.9 billion per year in public costs.³⁹

Eliminating the Subminimum Wage for Tipped Workers Is a Crucial Part of any Minimum Wage Legislation That Seeks to Make a Significant Difference in the Lives of Low-Wage Workers

For any minimum wage initiative to make a significant difference in the lives of low-wage workers, it should reject a subminimum wage for tipped workers. A subminimum wage for tipped workers has not always existed. Until 1966, there was no federal subminimum wage for tipped workers.⁴⁰ With the 1966 expansion of the Fair Labor Standards Act (FLSA) to cover hotel, motel, restaurant, and other leisure and hospitality employees who had previously been excluded by the FLSA, the FLSA was amended to allow employers to pay tipped workers a subminimum wage set at 50 percent of the full minimum wage.⁴¹ In 1996, when the Republican-controlled Congress raised the federal minimum wage from \$4.25 to \$5.15, it, bowed to pressure from the restaurant industry,

and froze the tipped minimum wage at \$2.13, decoupling it from the full minimum wage for the first time, and setting up *two decades* of a frozen minimum wage for tipped workers.⁴²

Seven states⁴³—California, Nevada, Oregon, Washington, Minnesota, Montana, Maine, and Alaska—do not have a subminimum wage for tipped workers, and Maine voters approved a ballot initiative in November 2016 that gradually eliminates the state’s subminimum wage for tipped workers.⁴⁴ Tipped workers in these seven states receive the full minimum wage directly from their employer and their tips function as a gratuity should—not as customers subsidizing wages that an employer should be paying, but as supplemental income over and above their wages in recognition of good service. Similarly, Hawaii abolished the subminimum wage for most tipped workers (preserving a very limited subminimum wage of just 75 cents less than the full minimum wage for tipped workers that average at least \$7.00 an hour in tips).⁴⁵

Although some in the restaurant industry claim that most tipped workers earn high incomes, the government data shows that, in fact, the typical tipped worker in Minneapolis earns just a little more than the Minnesota minimum wage. According to the most recent Bureau of Labor Statistics (BLS) data, between November 2012 and May 2015, the median wage, including tips, for restaurant servers in the Minneapolis-St. Paul Bloomington metropolitan area was \$8.98 per hour, and the mean (average), including tips, was \$10.29 per hour.⁴⁶ For most of the period covered by the BLS data, the applicable minimum wage was \$7.25 per hour, meaning that servers in the Minneapolis metropolitan area averaged between \$1.75 and \$3.00 an hour in tips—enough to lift them a few dollars above the minimum wage, but not the type of tip income that the restaurant industry often claims is typical.⁴⁷ Outside of the restaurant industry, tipped jobs include car wash workers, nail salon workers, and pizza delivery drivers—notorious sweatshop occupations where pay is often even lower.

Tipped work is inherently uneven and often unpredictable. While most of us expect to be paid the same for every day or hour we work, for tipped workers this is often not the case. Restaurant servers, who make up one of the largest tipped occupations, may make a substantial amount of money on Friday or Saturday nights but much less on other days of the week. Bad weather, a sluggish economy, the changing of the seasons, a less generous customer, and a host of other factors can also cause sudden drops in their tipped income and lead to economic insecurity.

It is no surprise, then, that, nationally, tipped workers face poverty rates that are about double those for non-tipped workers, and that the poverty rate for waiters and bartenders is even higher.⁴⁸ Tipped workers across the country are also significantly more likely to rely on public assistance to make ends meet. Close to half (46 percent) of tipped workers and their families rely on public benefits compared with 35.5 percent of non-tipped workers.⁴⁹

Ultimately, shifting the responsibility to pay workers’ wages to customers under the tipped minimum wage allows employers in a few select industries to benefit from a customer-funded subsidy at the expense of workers’ economic security.

The Complex Subminimum Wage System for Tipped Workers Is Difficult to Enforce and Results in Widespread Noncompliance

The subminimum tipped wage system is difficult to implement and plagued by noncompliance. Both employers and employees find it difficult to track tip earnings, a task that is often complicated by tip sharing arrangements amongst workers. Workers also often fear asking an employer to make up the difference between their earnings and the full minimum wage—an

employer might choose to give more favorable shifts to workers who do not make such demands, for example.

Given the implementation challenges inherent in the subminimum wage system, it is not surprising that a 2014 report by the White House National Economic Council and the U.S. Department of Labor found that one of the most prevalent violations amongst employers is failing to properly track employees' tips and make up the difference between an employee's base pay and the full minimum wage when tips fail to fill that gap.⁵⁰ A survey found that more than 1 in 10 workers employed in predominantly tipped occupations earned hourly wages below the full federal minimum wage, including tips.⁵¹

The Restaurant Industry Can Afford a \$15 Minimum Wage in Minneapolis without a Tip Credit

While some in the restaurant industry argue that eliminating the tipped subminimum wage would hurt the restaurant industry and/or restaurant workers, the facts belie those claims. In particular, the restaurant industry is strong in the states that have no tipped minimum wage, and sales there have been projected to grow at even faster rates than in many of the states that have retained the tipped minimum wage.

Restaurant sales are expected to reach \$799 billion in 2017, according to the latest NRA Industry Outlook.⁵² Many strong-growth states for restaurant jobs do not allow a tipped minimum wage for tipped workers and must pay tipped workers some of the country's highest base wage rates. Restaurant employment in California, which has no subminimum wage for tipped workers, is projected to grow by 10.1 percent during the 2016–2026 period.⁵³ In California, the minimum wage is now \$10 per hour for small employers (25 or fewer employees) and \$10.50 for large employers (26 or more employees), and the minimum wage will reach \$15 by 2023.⁵⁴ In Oregon, where the minimum wage is currently \$9.75 and will increase to between \$12.50 and \$14.75 per hour over the next six years,⁵⁵ and which similarly has no tipped subminimum wage, restaurant employment is projected to grow by 13.2 percent during that same period.⁵⁶ And in Washington State, where the minimum wage is \$11.00⁵⁷ and will increase to \$13.50,⁵⁸ restaurant employment growth during the same period is expected to grow by 12.6 percent.⁵⁹ According to the NRA's own projections, restaurant employment in the seven states without tipped minimum wage will grow in the next ten years at an average rate of 10.7 percent.⁶⁰

Moreover, a 2015 *Cornell Hospitality Report* looked at the impact of minimum wage increases on restaurant employment and business growth levels over twenty years across the United States. It found that raising the regular and tipped minimum wage will raise restaurant industry wages but will not lead to "large or reliable effects on full-service and limited-service restaurant employment."⁶¹

The Restaurant Industry Is Thriving in Cities like Seattle, San Francisco, and SeaTac That Are Raising Their Minimum Wage to \$15 and Have No Tipped Minimum Wage

In addition, the restaurant industry is thriving in cities such as Seattle, San Francisco, and SeaTac, Washington—all of which have all approved a \$15 minimum wage and which have no tipped subminimum—demonstrating that this combination is manageable for the restaurant industry and does not hurt jobs.

In a 2015 front-page story titled “Apocalypse Not: \$15 and the Cuts that Never Came,” the *Puget Sound Business Journal* reported on “[t]he minimum wage meltdown that never happened,” explaining that Seattle’s restaurant industry had continued to expand and thrive as the \$15 wage phases in.⁶² More recent reports confirm neither the city’s economy nor the restaurant industry has suffered.⁶³ The most recent study assessing the impact of \$15 on Seattle found that the law has increased pay for restaurant workers without costing jobs while the unemployment rate in the city has fallen to 2.6 percent in the last two years.⁶⁴ Restaurants “were among the city’s fastest growing industries, with more than 33,000 workers in 2016.”⁶⁵

Similarly, in San Francisco, where there is no tipped subminimum wage and the minimum wage is increasing to \$15, the Golden Gate Restaurant Association reports that, “the metrics show that San Francisco has still seen record restaurant growth.”⁶⁶ The small suburban city of SeaTac, Washington, which is home to the Seattle airport and many hotels and restaurants, has had a similar experience. Before the Washington city implemented a minimum wage increase to \$15 in 2014 for workers in the travel and hospitality industry, opponents warned of adverse consequences. Yet, as *The Seattle Times* summarized, “[f]or all the political uproar it caused, SeaTac’s closely watched experiment with a \$15 minimum wage has not created a large chain reaction of lost jobs and higher prices.”⁶⁷

Restaurants in Cities That Are Raising the Minimum Wage to \$15 and Have No Tipped Minimum Wage Are Not Rushing to Abolish Tipping, and Tipping Rates Have Not Dropped Significantly under Such Policies

Contrary to predictions by some, raising the minimum wage to \$15 and eliminating the tipped minimum wage at the same time does not lead restaurants to abolish tipping or lead diners to reduce tipping levels. While a small number of mostly high-end restaurants today are experimenting with getting rid of tipping entirely,⁶⁸ tipping continues to be the norm in states like California, Washington, Oregon, and Minnesota where tipped workers receive the full minimum wage before tips.

In San Francisco, with its minimum wage increasing to \$15 by 2018⁶⁹ and no subminimum wage for tipped workers, the Golden Gate Restaurant Association says that “[d]iners in San Francisco reported an average 19% tip rate”—a healthy rate that does not indicate a decline.⁷⁰

These reports are confirmed by national data, which shows that “raising the tipped wage significantly increases earnings of workers in FSRs [Full-Service Restaurants].”⁷¹ According to University of California researchers, “tipped workers in equal treatment states [with no tipped minimum wage] earn 14.2 percent more than tipped workers in low tipped minimum states.”⁷² When looking at only waiters and bartenders, data shows that earnings are about 20 percent higher in states where tipped workers must be paid the full minimum wage before tips, than in states that follow the federal \$2.13 tipped minimum wage.⁷³

NELP and ROC-United’s report, *The Case for Eliminating the Tipped Minimum Wage in Washington D.C.*,⁷⁴ offers additional quantitative and anecdotal evidence that the restaurant industries in cities like Seattle, San Francisco, and SeaTac, which have all adopted a \$15 minimum wage and do not permit a subminimum wage for tipped workers, are thriving.

Robust Enforcement of any Minimum Wage Law Adopted by the City Will Be Necessary in Order to Make a Real Difference in the Lives of Low-Wage Workers, and Granting Employees a Private Right of Action to Enforce the Law Is a Key Part of Any Effective Enforcement System

Wage theft is widespread across the country and across industries, costing workers and local economies billions of dollars each year.⁷⁵ A seminal 2009 study by NELP and other academic partners surveyed over 4,000 workers and found that 26 percent were paid less than the required minimum wage in the previous work week, and nearly two-thirds experienced at least one pay-related violation in the previous week, such as failure to pay overtime, not being paid for all hours worked, and stolen tips.⁷⁶ The report estimates that workers surveyed lost an average of 15 percent, or \$2,634, of their annual wages due to workplace violations.⁷⁷

Dozens of other studies of specific industries have uncovered similar rates of wage-related violations. A recent NELP study of business outsourcing, for example, found that the restructuring of employment arrangements through multi-layered contracting, the use of staffing or temp firms, franchising, and other means can result in poor working conditions and a lack of corporate responsibility.⁷⁸ The report focused on non-compliance in some of our largest and fastest-growing sectors. In the fast food industry, it reported that based on a 2014 study, nationally, nearly 90 percent of fast food workers suffered some sort of wage theft on the job.⁷⁹ In the warehouse and logistics industry, 23.1 percent suffered minimum wage violations and 67.8 percent suffered overtime violations.⁸⁰ About 80 percent of port truck drivers who transport goods from ports to railheads or logistics firms are classified as independent contractors, and approximately 80 percent of these workers are misclassified.⁸¹

Given the information we have about wage theft nationally, as well as the many challenges facing workers who suffer violations, such as the high cost of legal representation, the possibility of retaliation, and language barriers, the numbers highlighted here likely represent only the tip of the iceberg when it comes to wage and hour violations. In short, the wage theft crisis is not only severe, it is pervasive. It affects industries and occupations across our economy, and while it is especially severe among our nation's low-wage workforce, it is not limited to those sectors.

An effective enforcement scheme must protect workers who come forward to raise complaints, because that is how the vast majority of workplace violations are identified and remedied, given our complaint-driven system of enforcement. An effective scheme must also include strong public and private enforcement tools to better guarantee compliance and help ensure collection of owed wages.

A private right of action gives workers the right to bring a lawsuit in court to address violations and recover their unpaid wages. It is important because wage theft is rampant and government agencies with limited public resources simply cannot tackle enforcement alone. Additionally, public agencies' funding and priorities for enforcement can change over time and giving workers access to courts ensures they always have a way to protect their rights. To be effective, a private right of action must also allow workers to recover attorneys' fees and costs, since the prohibitive cost of legal representation is a significant barrier to low-wage workers who need to protect their rights in court.⁸² NELP strongly encourages the Minneapolis City Council to preserve the private right of action that has been included in the bill under consideration today.

For more information on enforcement tools that NELP recommends for any effective enforcement system, please refer to NELP’s policy brief entitled, “The Top 5 Enforcement Tools for Local Minimum Wage Laws.”⁸³

Thank you so much for the opportunity to testify today. I would be happy to answer any questions that you may have.

For more information, please contact NELP Staff Attorney Laura Huizar at lhuizar@nelp.org. For more about NELP, visit www.nelp.org or www.raisetheminimumwage.org.

¹ Maine voters approved a gradual elimination of the state’s subminimum wage in November 2016. Darren Fishell, “Maine votes to raise minimum hourly wage to \$9 next year, \$12 in 2020,” *Bangor Daily News*, Nov. 9, 2016, available at <http://bangordailynews.com/2016/11/09/politics/maine-votes-to-raise-minimum-hourly-wage-to-9-next-year-12-in-2020/>.

² Municipal Minimum Wage Draft Ordinance – REVISED (June 21, 2017), available at <http://www.minneapolismn.gov/meetings/legislation/WCMSP-199379>.

³ *Id.*

⁴ Economic Policy Institute, Family Budget Calculator, <http://www.epi.org/resources/budget/> (last viewed June 21, 2017).

⁵ See *supra* note 2.

⁶ National Employment Law Project, Occupational Wage Declines Since the Great Recession (Sept. 2015), available at <http://www.nelp.org/content/uploads/Occupational-Wage-Declines-Since-the-Great-Recession.pdf>.

⁷ *Id.*

⁸ National Employment Law Project, Fight for \$15: Four Years, \$62 Billion (Dec. 2016) at 1, available at <http://www.nelp.org/content/uploads/Fight-for-15-Four-Years-62-Billion-in-Raises.pdf>.

⁹ *Id.*

¹⁰ *Id.*

¹¹ RaisetheMinimumWage.com, Campaigns, <http://raisetheminimumwage.com/state-campaigns/?campaign-status=active> (last viewed June 21, 2017).

¹² *Id.*

¹³ *Id.*

¹⁴ Hart Research, Support for a Federal Minimum Wage of \$12.50 or above (Jan. 2015), available at <http://www.nelp.org/content/uploads/2015/03/Minimum-Wage-Poll-Memo-Jan-2015.pdf>.

¹⁵ Victoria Research, Results of National Poll of Workers Paid Less than \$15 Per Hour (Oct. 2015), available at <http://www.nelp.org/content/uploads/Low-Wage-Worker-Survey-Memo-October-2015.pdf>.

¹⁶ *Id.*

¹⁷ Erin Golden, “Minneapolis \$15-an-hour minimum wage petition has enough signatures for November ballot,” *Star Tribune*, July 21, 2016, available at <http://www.startribune.com/minneapolis-15-minimum-wage-petition-has-enough-signatures-for-november-ballot/387673321/>.

¹⁸ 15Nowmn.nationbuilder.com/poll, Poll: Minneapolis Voters Strongly Support \$15/hour Charter Amendment, <http://15nowmn.nationbuilder.com/poll> (last viewed June 21, 2017).

¹⁹ Michael Reich et al (eds.), University of California Press, When Mandates Work: Raising Labor Standards at the Local Level (2014), available at <http://irle.berkeley.edu/publications/when-mandates-work/>.

²⁰ Arindrajit Dube, Minimum Wages and the Distribution of Family Incomes (Dec. 2013) at 31, available at https://dl.dropboxusercontent.com/u/15038936/Dube_MinimumWagesFamilyIncomes.pdf (“I find robust evidence that minimum wages tend to reduce the incidence of poverty, and also proportions with incomes under one-half or three-quarters of the poverty line”).

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- ²¹ William Copeland & Elizabeth J. Costello, *Am. Econ. J. Appl. Econ.*, Parents' Incomes and Children's Outcomes: A Quasi-Experiment (Jan. 2010) at 1.
- ²² Rajiv Bhatia, Human Impact Partners, Health Impacts of Raising California's Minimum Wage (May 2014) at 3, available at http://healthpolicy.ucla.edu/publications/Documents/PDF/2014/SB935_HealthAnalysis.pdf.
- ²³ *Id.*
- ²⁴ *Id.*
- ²⁵ Lisa Dodson & Randy Albelda, Center for Social Policy, Univ. of Mass., Boston, How Youth Are Put at Risk by Parents' Low-Wage Jobs (Fall 2012) at 9–13.
- ²⁶ Editorial Board, "Raise the Minimum Wage," *BloombergView*, Apr. 18, 2012, available at <http://www.bloomberg.com/news/2012-04-16/u-s-minimum-wage-lower-than-in-lbj-era-needs-a-raise.html>.
- ²⁷ Arindrajit Dube et al, *The Review of Economics and Statistics*, Minimum Wage Effects Across State Borders: Estimates Using Contiguous Counties (Nov. 2010) at 92(4): 945–964. A summary of the study prepared by NELP is available at http://nelp.3cdn.net/98b449fce61fca7d43_j1m6iizwd.pdf.
- ²⁸ Similar, sophisticated new research has also focused in particular on teen workers—a very small segment of the low-wage workforce affected by minimum wage increases, but one that is presumed to be especially vulnerable to displacement because of their lack of job tenure and experience. However, the research has similarly found no evidence that minimum wage increases in the U.S. in recent years have had any adverse effect on teen employment. See Sylvia Allegretto et al, *Industrial Relations*, Do Minimum Wages Reduce Teen Employment? (Apr. 2011) at vol. 50, no. 2. A NELP Summary is available at http://nelp.3cdn.net/eb5df32f3af67ae91b_65m6iv7eb.pdf.
- ²⁹ Hristos Doucouliagos & T.D. Stanley, *British J. of Indus. Relations*, Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis (May 2009) at Vol. 47, Iss. 2.
- ³⁰ Paul Wolfson & Dale Belman, *Upjohn Inst. for Employ. Res.*, What Does the Minimum Wage Do? (2014).
- ³¹ Center for Economic & Policy Research, 2014 Job Creation Faster in States that Raised the Minimum Wage (June 2014), available at <http://www.cepr.net/index.php/blogs/cepr-blog/2014-job-creation-in-states-that-raised-the-minimum-wage>.
- ³² Michael Reich et al, Univ. of Calif.-Berkeley, *The Economic Effects of a Citywide Minimum Wage (2007)*, available at http://www.irl.berkeley.edu/cwed/wp/economicimpacts_07.pdf.
- ³³ Michael Reich et al (eds.), Univ. of Calif. Press, "When Mandates Work: Raising Labor Standards at the Local Level," (2014) at 31, available at <http://irl.berkeley.edu/publications/when-mandates-work/>. See also Susan Berfield, "San Francisco's Higher Minimum Wage Hasn't Hurt the Economy," *BloombergBusiness*, Jan. 2014, available at <http://www.businessweek.com/articles/2014-01-22/san-franciscos-higher-minimum-wage-hasnt-hurt-the-economy>; Carolyn Lochhead, "S.F. praised as model for U.S. on increasing minimum wage," *SF Gate*, Jan. 28, 2014, available at <http://www.sfgate.com/politics/article/S-F-praised-as-model-for-U-S-on-increasing-5183378.php>.
- ³⁴ Bureau of Business and Economic Research, University of New Mexico, *Measuring the Employment Impacts of the Living Wage Ordinance in Santa Fe, New Mexico (June 2006)*, available at <http://bber.unm.edu/pubs/EmploymentLivingWageAnalysis.pdf>.
- ³⁵ John Schmitt & David Rosnick, Center for Econ. & Policy Research, *The Wage and Employment Impact of Minimum-Wage Laws in Three Cities (Mar. 2011)* at 1, available at <http://www.cepr.net/documents/publications/min-wage-2011-03.pdf>. For a helpful overview of this literature on the impact of city minimum wages, see Michael Reich et al, *Local Minimum Wage Laws: Impacts on Workers, Families and Businesses: Report prepared for the Seattle Income Inequality Advisory Committee (Mar. 2014)* at 17–19, available at <http://murray.seattle.gov/wp-content/uploads/2014/03/UC-Berkeley-IIAC-Report-3-20-2014.pdf>.
- ³⁶ Gene Johnson, "Study: Seattle minimum wage hasn't cut jobs," *The Washington Post*, June 20, 2017, available at https://www.washingtonpost.com/national/apnewsbreak-study-seattle-minimum-wage-hasnt-cut-jobs/2017/06/20/c6480040-55f4-11e7-840b-512026319da7_story.html?utm_term=.e53010039d07.
- ³⁷ Democratic staff of the U.S. House Committee on Education and the Workforce, *The Low-Wage Drag on Our Economy: Wal-Mart's low wages and their effect on taxpayers and economic growth (May 2013)*, available at <http://democrats-edworkforce.house.gov/imo/media/doc/WalMartReport-May2013.pdf>.
- ³⁸ Sylvia Allegretto et al, *Fast Food, Poverty Wages: The Public Cost of Low-Wage Jobs in the Fast-Food Industry (Oct. 2013)*, available at http://laborcenter.berkeley.edu/publiccosts/fast_food_poverty_wages.pdf.

-
- ³⁹ National Employment Law Project, Super-sizing Public Costs: How Low Wages at Top Fast-Food Chains Leave Taxpayers Footing the Bill (Oct. 2013), *available at* <http://www.nelp.org/content/uploads/2015/03/NELP-Super-Sizing-Public-Costs-Fast-Food-Report.pdf>.
- ⁴⁰ William G. Whitaker, Congressional Research Service, The Tip Credit Provisions of the Fair Labor Standards Act at CRS-3 (Mar. 2006).
- ⁴¹ *Id.*
- ⁴² *Id.* at CRS-6.
- ⁴³ Restaurant Opportunities Centers United & National Employment Law Project, The Case for Eliminating the Tipped Minimum Wage in Washington, D.C. (May 2016), *available at* <http://nelp.org/content/uploads/Report-Case-Eliminating-Tipped-Minimum-Wage-Washington-DC.pdf>.
- ⁴⁴ *See supra* note 1.
- ⁴⁵ Hawaii currently allows employers to take a 75 cent tip credit when employees earn \$15.50 or more an hour in wages plus tips. In 2017, employers will continue to be authorized to take a 75 cent tip credit but only if employees earn \$16.25 or more per hour in wages plus tips. Ultimately, the minimum wages plus tips threshold will rise to \$17.10 in 2018. *See* State of Hawaii Department of Labor and Industrial Relations, Notice to Employees: Tip Credit under the Hawaii Wage and Hour Law (June 2014), *available at* <http://labor.hawaii.gov/wsd/files/2014/06/Tip-Credit-Notice-with-exhibits-June-2014.pdf>.
- ⁴⁶ National Employment Law Project, Minnesota Has Consistently Rejected a Lower Minimum Wage for Tipped Workers—and Minneapolis Should Not Consider One Now (Feb. 2017) at 2, *available at* <http://www.nelp.org/content/uploads/MN-One-Fair-Wage-Reject-Lower-Minimum-Wage-for-Tipped-Workers-Minneapolis-2-27-2017.pdf>.
- ⁴⁷ *Id.*
- ⁴⁸ Sylvia A. Allegretto & David Cooper, Twenty-three Years and Still Waiting for Change: Why It’s Time to Give Tipped Workers the Regular Minimum Wage (July 2014), *available at* <http://www.epi.org/files/2014/EPI-CWED-BP379.pdf> (“[T]he poverty rate of non-tipped workers is 6.5 percent, while it is 12.8 percent for tipped workers in general and 14.9 percent for waiters and bartenders.”) (hereinafter “Allegretto & Cooper (2014)”).
- ⁴⁹ *Id.* at 3.
- ⁵⁰ National Economic Council et al., The Impact of Raising the Minimum Wage on Women and the Importance of Ensuring a Robust Tipped Minimum Wage (Mar. 2014) at 7, *available at* <http://www.whitehouse.gov/sites/default/files/docs/20140325minimumwageandwomenreportfinal.pdf>.
- ⁵¹ *Id.* at 6.
- ⁵² National Restaurant Association, 2017 National Restaurant Association Restaurant Industry Outlook, http://www.restaurant.org/Downloads/PDFs/News-Research/2017_Restaurant_outlook_summary-FINAL.pdf (last viewed June 21, 2017).
- ⁵³ National Restaurant Association, Projected Restaurant Employment Growth 2016-2026, <http://www.restaurant.org/Restaurant/media/Restaurant/Sitelimages/News%20and%20Research/Forecast/2016/2016-Employment-Growth-Map.jpg> (last viewed June 21, 2017).
- ⁵⁴ United States Department of Labor, Wage and Hour Division, Minimum Wage Laws in the States – January 1, 2017, <https://www.dol.gov/whd/minwage/america.htm> (last viewed June 21, 2017); RaisetheMinimumWage.com, Campaigns, <http://raisetheminimumwage.com/state-campaigns/> (last viewed June 21, 2017).
- ⁵⁵ *Id.*
- ⁵⁶ National Restaurant Association, Projected Restaurant Employment Growth 2016-2026, <http://www.restaurant.org/Restaurant/media/Restaurant/Sitelimages/News%20and%20Research/Forecast/2016/2016-Employment-Growth-Map.jpg> (last viewed June 21, 2017).
- ⁵⁷ United States Department of Labor, Wage and Hour Division, Minimum Wage Laws in the States – January 1, 2017, <https://www.dol.gov/whd/minwage/america.htm> (last viewed June 21, 2017).
- ⁵⁸ Janet I. Tu, “Voters approve minimum wage increase to \$13.50 in Washington state,” *The Seattle Times*, Nov. 8, 2016, *available at* <http://www.seattletimes.com/seattle-news/politics/washington-state-minimum-wage-initiative-1433/>.
- ⁵⁹ National Restaurant Association, Projected Restaurant Employment Growth 2016-2026, <http://www.restaurant.org/Restaurant/media/Restaurant/Sitelimages/News%20and%20Research/Forecast/2016/2016-Employment-Growth-Map.jpg> (last viewed June 21, 2017).

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- ⁶⁰ Based on NRA employment data for California, Nevada, Oregon, Washington, Alaska, Minnesota, and Montana. See National Restaurant Association, Projected Restaurant Employment Growth 2016-2026, <http://www.restaurant.org/Restaurant/media/Restaurant/SiteImages/News%20and%20Research/Forecast/2016/2016-Employment-Growth-Map.jpg> (last viewed June 21, 2017).
- ⁶¹ Michael Lynn & Christopher Boone, Have Minimum Wage Increases Hurt the Restaurant Industry? The Evidence Says No! (2015), Cornell Hospitality Report, *available at* <http://scholarship.sha.cornell.edu/cgi/viewcontent.cgi?article=1000&context=chrreports>.
- ⁶² Paul Constant, "You Should Read This Story About Seattle's 'Minimum Wage Meltdown That Never Happened,'" *Civic Skunk Works*, October 23, 2015.
- ⁶³ Blanca Torres, "A year in, 'the sky is not falling' from Seattle's minimum-wage hike," *The Seattle Times*, March 31, 2016, *available at* <http://www.seattletimes.com/business/economy/a-year-in-the-sky-is-not-falling-from-seattles-minimum-wage-hike/>.
- ⁶⁴ See *supra* note 36.
- ⁶⁵ *Id.*
- ⁶⁶ Samantha Higgins, Golden Gate Restaurant Association, The State of the Industry: An Update from GGRA's Executive Director (Apr. 2016), *available at* <http://ggra.org/the-state-of-the-industry-an-update-from-ggras-executive-director/>.
- ⁶⁷ Amy Martinez, "\$15 wage floor slowly takes hold in SeaTac," Feb. 13, 2015, *The Seattle Times*, *available at* <http://www.seattletimes.com/seattle-news/15-wage-floor-slowly-takes-hold-in-seatac/>.
- ⁶⁸ See, e.g., Pete Wells, "Danny Meyer Restaurants to Eliminate Tipping," Oct. 14, 2015, *The New York Times*, *available at* <http://www.nytimes.com/2015/10/15/dining/danny-meyer-restaurants-no-tips.html>; Bret Thorn & Nancy Kruse, "Is tipping on the way out?," *Nation's Restaurant News*, Mar. 1, 2016, *available at* <http://nrm.com/operations/tipping-way-out>; Phil Vettel, "No-tipping policy begins at NYC restaurant and industry is watching," *Chicago Tribune*, Nov. 20, 2015, *available at* <http://www.chicagotribune.com/dining/ct-no-tipping-nyc-restaurant-danny-meyer-20151119-story.html>.
- ⁶⁹ RaisetHeMinimumWage.com, Campaigns, <http://raisetheminimumwage.com/> (last viewed June 21, 2017).
- ⁷⁰ Samantha Higgins, Golden Gate Restaurant Association, The State of the Industry: An Update from GGRA's Executive Director (Apr. 2016), *available at* <http://ggra.org/the-state-of-the-industry-an-update-from-ggras-executive-director/>.
- ⁷¹ Sylvia Allegretto & Carl Nadler, Tipped Wage Effects on Earnings and Employment in Full-Service Restaurants, *Industrial Relations*, Vol. 54, No. 4 (Oct. 2015), *available at* <http://www.irl.berkeley.edu/cwed/allegretto/pubs/AllegrettoNadler.pdf>. See also Albor Ruiz, *Domino's Pizza workers win settlement holding parent corporation accountable for franchise's labor law violations*, *Daily News*, Feb. 13, 2014, *available at* <http://www.nydailynews.com/jobs/labor-lawsuit-domino-fall-article-1.1613963> (discussing settlement in lawsuit against Domino's Pizza and the sweatshop conditions for workers).
- ⁷² Allegretto & Cooper (2014) at 11.
- ⁷³ *Id.*
- ⁷⁴ Restaurant Opportunities Centers United & National Employment Law Project, The Case for Eliminating the Tipped Minimum Wage in Washington, D.C. (May 2016), *available at* <http://nelp.org/content/uploads/Report-Case-Eliminating-Tipped-Minimum-Wage-Washington-DC.pdf>.
- ⁷⁵ Brady Meixell & Ross Eisenbrey, Economic Policy Institute, An Epidemic of Wage Theft Is Costing Workers Hundreds of Millions of Dollars a Year (Sept. 2014), *available at* <http://www.epi.org/publication/epidemic-wage-theft-costing-workers-hundreds/>.
- ⁷⁶ National Employment Law Project et al., Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities (Sept. 2009), *available at* <http://www.nelp.org/publication/broken-laws-unprotected-workers-violations-of-employment-and-labor-laws-in-americas-cities/>.
- ⁷⁷ *Id.* at 5.
- ⁷⁸ Catherine Ruckelshaus et al., National Employment Law Project, Who's the Boss: Restoring Accountability for Labor Standards in Outsourced Work (May 2014) at Executive Summary, *available at* <http://www.nelp.org/content/uploads/2015/02/Whos-the-Boss-Restoring-Accountability-Labor-Standards-Outsourced-Work-Report.pdf>.
- ⁷⁹ *Id.* at 11.
- ⁸⁰ *Id.* at 15.

⁸¹ *Id.* at 22. In addition, “in audits of employers in 1999 and 2000, the US Department of Labor (USDOL) found high rates of minimum wage, overtime and other violations across the country, including in 50 percent of Pittsburgh restaurants, 74 percent of Georgia day care centers, 50 percent of St. Louis nursing homes, 38 percent of Reno hotels and motels, and 47 percent of adult family homes in Seattle, to name just a few.” National Employment Law Project, *Winning Wage Justice: An Advocate’s Guide to State and City Policies to Fight Wage Theft* (Jan. 2011) at 5–6, *available at* <http://www.nelp.org/content/uploads/2015/03/WinningWageJustice2011.pdf>.

⁸² *Id.* at 31.

⁸³ National Employment Law Project, *The Top 5 Enforcement Tools for Local Minimum Wage Laws* (Dec. 2015), *available at* <http://www.nelp.org/publication/the-top-5-enforcement-tools-for-local-minimum-wage-laws/>.