

## **Testimony of Yannet Lathrop**

National Employment Law Project

# **In Support of a \$15 Minimum Wage, and Against a Youth or Training Wage in Montgomery County**

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*Hearing before the Montgomery County Council, Maryland, with  
regard to Bill 28-17*

September 26, 2017

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Members of the Montgomery County Council, thank you for the opportunity to testify today. And a special thanks to Councilmember Elrich for introducing Bill 28-17.

My name is Yannet Lathrop, and I am a researcher and policy analyst at the National Employment Law Project (NELP). NELP is a non-profit, non-partisan research and advocacy organization specializing in employment policy. We are based in New York with offices across the country, and we partner with federal, state, and local lawmakers on a wide range of workforce issues. Across the country, our staff are recognized as policy experts in subject 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, state legislatures and the U.S. Congress on measures to boost pay for low-wage workers. We track both, the economic experience of state and local jurisdictions that have increased their wage floor, and the academic research on the minimum wage. As a result, we have developed a strong expertise on the analysis of minimum wage policy.

**NELP testifies in support of a \$15 minimum wage for Montgomery County, the gradual elimination of the tipped subminimum wage, and the indexing of both to inflation** so that the value of the minimum wage does not diminish over time. Bill 28-17 would do the former and the latter, but unfortunately, it falls short of addressing the need to phase-out the tipped subminimum wage in the County.

A \$15 minimum wage will help workers in Montgomery County—which has some of the highest costs of living in the country—meet their basic needs. And phasing-out of the unjust tipped subminimum wage would ensure that tipped workers receive the same One Fair Wage as all other workers. Eliminating the subminimum tipped wage is, in fact, a crucial part of any minimum wage increase that seeks to make a real significant difference for low-wage workers. Because the complex subminimum wage system is difficult to enforce, it can result in widespread noncompliance and wage theft. Moreover, workers who are forced to rely mainly on tips for income—rather than on a stable base wage paid directly by their employer—face wide fluctuations in earnings as tips vary from season to season, shift to shift, and customer to customer. As a result, these workers have significantly higher rates of poverty than the rest of the labor force.

**NELP also testifies *against* the youth and training wages, proposed separately in Bill 28-17 and by County Executive Isiah Leggett.** The youth wage would discriminate against workers under 20 years of age by allowing their employers to pay them only 85 percent of the regular minimum wage for six months—*a provision so harsh, that no other \$15 minimum wage jurisdiction in the country has adopted.* And a training wage, as proposed by the County Executive, would discriminate against workers of any age for the first 90 days of employment—a time when low-wage workers tend to be most economically vulnerable.

NELP urges the County to reject these and any other proposals than would exempt or adopt a lower minimum wage for young workers or establish a training wage.

If Montgomery County approves a \$15 minimum wage, it would join a growing number of local jurisdictions across the country that have enacted or are pushing for similar policies. Nearly two-dozen cities and counties—from Washington, D.C. to Minneapolis to Flagstaff, Arizona—have already approved \$15 wage floors, and other local campaigns are underway. In addition, two of the nation’s biggest states—California and New York—also approved statewide \$15 minimum wage policies last year, while Oregon adopted a slightly lower \$14.75 wage floor for most of the state. A growing number of other states are currently considering similar legislation.

The most rigorous modern research on the impact of higher minimum wages—including robust increases to \$13 or more—shows that these policies boost worker earnings with little to no adverse impact on employment (including teen employment). The benefits for low-wage workers and their families have been significant, raising pay 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. The increased consumer spending triggered by higher wages can boost demand for goods and services, keep money circulating in the economy, and create a virtuous cycle that benefits workers, businesses and the County.

In the testimony that follows, I will summarize the evidence for these and other key points.

# Overview: The National Movement to Raise the Minimum Wage; the Need for a \$15 Minimum Wage in Montgomery County; and the Effects and Benefits of a Higher Wage Floor

## A Growing Number of Jurisdictions Are Adopting \$15 Minimum Wage Laws, Reflecting Continued Concerns with Low Wages and Popular Support for Bold Change

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With job growth skewed towards low-paying occupations over the past decade, there has been growing national momentum for action to raise the minimum wage. Although the U.S. median household income is slowly climbing from the depths of the Great Recession,<sup>1</sup> hourly wages continue to stay flat or decline for most of the labor force.

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, often with overwhelming support from voters. Polling data shows that approximately two out of three individuals support a \$15 minimum wage, and support among low-wage workers is even higher.<sup>2</sup> 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.<sup>3</sup>

Since November 2012, an estimated 19 million workers throughout the country have earned wage increases through a combination of states and cities raising their minimum wages; executive orders by city, state and federal leaders; and individual companies raising their pay scales.<sup>4</sup> Of those workers, **nearly 10 million will receive gradual raises to \$15 per hour.**<sup>5</sup>

A growing number of states and localities have adopted, and are currently phasing in, \$15 minimum wage laws. Since 2012, nearly two-dozen cities and counties from Washington, D.C. to Minneapolis to Flagstaff, Arizona have approved \$15 minimum wage legislation,<sup>6</sup> and two of the nation's biggest states—California and New York—also approved statewide \$15 minimum wage policies last year, while Oregon adopted a slightly lower wage floor of \$14.75 for the majority of the state.<sup>7</sup> In addition, other local and state jurisdictions are currently or will soon be considering similar \$15 minimum wage legislation

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

## Montgomery County Is Becoming Unaffordable for Most Low-Wage Workers and Their Families; They Need a \$15 Minimum Wage Today Just to Make Ends Meet

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Facing some of the highest costs of living in the nation, low-wage workers in Montgomery County already need to earn far more than \$15 per hour just to afford the basics. By 2024, they will need much more.

Along with jurisdictions such as New York City and San Francisco, the Washington D.C. metropolitan region, which includes Montgomery County, has some of the most expensive and fastest rising housing in the nation,<sup>8</sup> which can quickly drain the budgets of low-income families. Housing costs in the region are enough of a concern, that Montgomery County and the City of Rockville have issued reports highlighting the worrying trend of increasing housing unaffordability, decreasing real incomes, and the low supplies of affordable housing.<sup>9</sup>

Not surprisingly, analysis of housing and other living expenses in the area shows that monthly rent in Montgomery County exceeds the current County wage floor. Rent for a modest studio, for example, can cost upwards of \$1,440, which means that County residents need to earn \$27.69 per hour—more than \$12 above the target minimum wage rate of \$15—just to afford rent and other basics.<sup>10</sup> Parents of young children, and other workers needing at least a one-bedroom apartment, face \$1,513 monthly rents, which require hourly earnings of \$29.10.<sup>11</sup>

Alternative—and more modest—estimates confirm the high costs of living in Montgomery County and the need for the County Council to adopt a minimum wage of *at least* \$15 hourly in as short a schedule as possible. As Table 1 shows below, **single workers without family responsibilities already need to earn an hourly rate of more than \$21 per hour to make ends meet.** Parents caring for at least one child often need significantly more. Assuming modest inflation, by 2024, some of these workers will need to earn nearly \$20 above the target rate of \$15.

**Table 1. Montgomery County workers need \$15 Today; by 2024, they will need much more**

	Family Size	2017 (Inflation Adj.)	2020 (Estimated)	2022 (Estimated)	2024 (Estimated)
Maryland Suburbs of Washington, D.C.	Single Adult	\$21.13	\$22.43	\$23.33	\$24.28
	1 Adult 1 Child	\$32.86	\$34.87	\$36.28	\$37.75
	2 Adults 2 Children*	\$20.24	\$21.48	\$22.34	\$23.25

\* Hourly wage per adult worker.  
 NELP analysis of Economic Policy Institute's *Family Budget Calculator*, <http://www.epi.org/resources/budget/>. Assumes a modest 2 percent inflation and no median wage growth. Inflation adjustment to January 2017 with Bureau of Labor Statistics' *Inflation Calculator*, <https://data.bls.gov/cgi-bin/cpicalc.pl>.

## Higher Earnings from Minimum Wage Increases Can Have Significant Benefits for Low-Income Individuals and Their Families

By raising pay broadly across the bottom of the economy, substantial minimum wage increases can have very direct and tangible impacts on the lives of affected workers and their families, and can be **an effective strategy for addressing declining wages and opportunities for low-wage workers.**

For example, analysis of San Francisco's minimum wage policy—which, over the past decade, has remained significantly above the California and federal rates—shows that the City's minimum wage boosted pay by more than \$1.2 billion for more than 55,000 workers, and permanently raised citywide pay rates for the bottom 10 percent of its labor force.<sup>12</sup> (San Francisco voters first approved an \$8.50 minimum wage in 2003,<sup>13</sup> at the time one of the highest in the nation. The widely recognized success of this measure led Mayor Ed Lee to broker an agreement with business and labor to place a new increase—this time to \$15—on the November 2014 ballot, which voters overwhelmingly approved).<sup>14</sup>

The higher incomes resulting from a minimum wage increase can also translate to a **range of other important improvements** in the lives of struggling low-paid workers and their households. For workers with the lowest earnings, studies show that **the additional pay can increase their net incomes and lift them and their families out of poverty.**<sup>15</sup> Similarly, higher incomes for low-wage workers and their households translate to improved educational attainment and health outcomes. For example, a study by the National Institutes of Health determined that for children in low-income households, "[a]n additional \$4000 per year for the poorest households **increases educational attainment** by one year at age 21."<sup>16</sup> Another study found that raising

California’s minimum wage to \$13 per hour by 2017 “would **significantly benefit [the] health and well-being**” of Californians, and that they “would experience fewer chronic diseases and disabilities; less hunger, smoking and obesity; and lower rates of depression and bipolar illness. In the long run, raising the minimum wage would prevent the premature deaths of hundreds of lower-income Californians each year.”<sup>17</sup> And a study by University of Massachusetts researchers 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.<sup>18</sup>

## **Decades of Rigorous Research Shows That Raising the Minimum Wage Boosts Workers’ Incomes Without Adverse Employment Effects**

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The most rigorous minimum wage research over the past two decades, which examine scores of state and local increases across the U.S., demonstrates that these measures have raised workers’ incomes without reducing employment. The substantial weight of the scholarly evidence reflects a significant shift in the views of the economics profession, away from the simplistic view that higher minimum wages cost jobs. As *Bloomberg News* summarized in 2012:

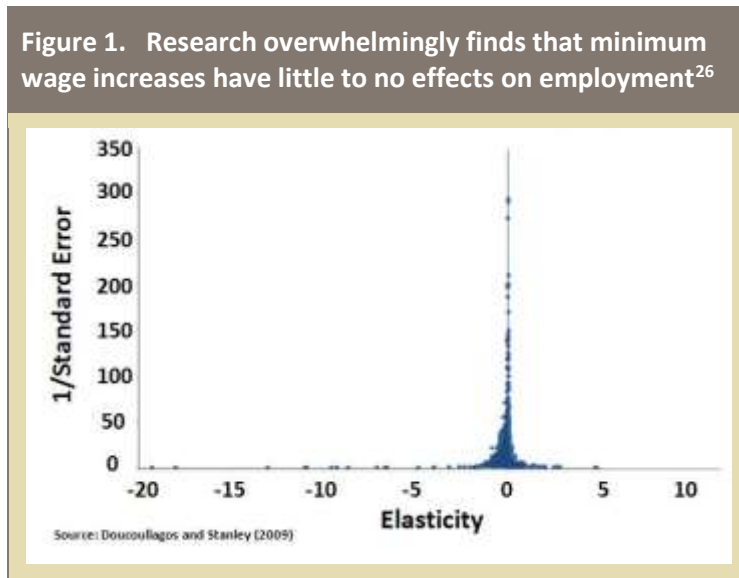
*[A] wave of new economic research is disproving those arguments about job losses and youth employment. Previous studies tended not to control for regional economic trends that were already affecting employment levels, such as a manufacturing-dependent state that was shedding jobs. The new research looks 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.*<sup>19</sup>

One of the most sophisticated studies coming out of this new wave of minimum wage research, “Minimum Wage Effects Across State Borders,” was published in 2010 by a team of economists from the universities of California, Massachusetts, and North Carolina in the prestigious *Review of Economics and Statistics*.<sup>20</sup> 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.<sup>21</sup> Consistent with a long line of similar research, the study found no difference in job growth rates in 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.<sup>22</sup>

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. The study was lauded as state-of-the-art by the nation’s top labor economists, such as Lawrence Katz of Harvard University, and David Autor and Michael Greenstone from the Massachusetts Institute of Technology.<sup>23</sup> (By contrast, studies often cited by minimum wage opponents, which 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.)

However, it is not simply individual 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 individual studies on the impact of minimum wage increases, published in the *British Journal of Industrial Relations* in 2009 by economists Hristos Doucouliagos and T. D. Stanley, shows that the bulk of the studies find close to no impact on employment.<sup>24</sup>

This is vividly illustrated in Figure 1, below, which arrays the 1,492 different findings from 64 different studies, mapping their conclusions on employment impacts against the statistical precision of the findings. As economist Jared Bernstein summarizes, “the strong clumping around zero [impact on jobs] provides a useful summary of decades of research on this question [of whether minimum wage increases cost jobs].”<sup>25</sup>



Drawing on the methodological insights of Doucouliagos and Stanley, a more recent meta-study by Dale Belman and Paul Wolfson reviews more than 70 studies and 439 distinct estimates to come to a very similar conclusion: “[I]t appears that if negative effects on employment are present, they are too small to be statistically detectable. Such effects would be too modest to have meaningful consequences in the dynamically changing labor markets of the United States.”<sup>27</sup>

Similarly, in an analysis released near the end of the Obama Administration by the White House Council of Economic Advisors, economists examined all U.S. minimum wage increases since the Great Recession. Like the lion’s share of recent rigorous research on the minimum wage, they found that the post-recession increases delivered significant raises to low-wage workers with little negative effect on job growth.<sup>28</sup>

## **Mounting Evidence from Cities That Were Early Adopters of High Minimum Wages Shows Little Adverse Effects on Jobs and Manageable Implementation for Employers**

Beginning with SeaTac, Washington in 2012—joined later by Seattle, San Francisco, Minneapolis and dozens of other local jurisdictions—U.S. cities have been at the forefront of the movement to raise minimum wages to significant levels up to \$15, forging a path for states to do the same. Academic studies and the media are beginning to report on the experience of these cities, documenting the effects these policies are having on local economies. To date, both research and business press reports suggest these measures are boosting pay with little negative impact on employment.

**Seattle.** This past June, the team of University of California economists released a study that explored the impact of Seattle’s higher minimum wage, which this year hit the \$15 mark for large employers. The study focused on the restaurant industry—the largest low-paying sector where any negative effects on jobs would first appear. The study found that Seattle’s minimum wage, which ranged from \$10.50 to \$13 during the period analyzed, had raised pay for workers without any evidence of a negative impact on jobs.<sup>29</sup> Another much-

publicized Seattle study reached a conflicting conclusion, suggesting that the increase had cost jobs.<sup>30</sup> But the conflicting study has come under fire for its serious methodological errors, which cast doubt on its findings.<sup>31</sup> These problems include the fact that the study excluded 40 percent of the workforce from its analysis, and failed to control for Seattle's booming economy, which was naturally reducing the number of low-paying jobs as employers raised pay independent of the minimum wage to compete for scarce workers.<sup>32</sup>

Business press reports on Seattle's economy and job market confirm that it is continuing to thrive as the \$15 minimum wage phases in. Today, Seattle has an unemployment rate of just 3.5 percent, one of the lowest on record for the area and lower than the Washington State and U.S. unemployment rates.<sup>33</sup> As *Forbes* reported recently, "Higher Seattle Minimum Wage Hasn't Hurt Restaurant Jobs Growth After a Year."<sup>34</sup> Earlier reporting in the *Puget Sound Business Journal* was titled "Apocalypse Not: \$15 and the Cuts that Never Came."<sup>35</sup>

**San Francisco.** After SeaTac and Seattle, San Francisco was one of the first U.S. cities to adopt a higher minimum wage in 2003. Four years later, a study published in Cornell University's *Industrial and Labor Relations Review* found that the city had raised pay without costing jobs.<sup>36</sup> Today, the city's minimum wage is \$14 and will rise to \$15 next year. While an updated study of the impact of the city's higher wage floor is expected in the coming months, all indicators suggest that it is going smoothly. The city's unemployment rate dropped to 3.9 percent in July of this year<sup>37</sup> from 5.7 percent in July 2014<sup>38</sup>—the year in which the city adopted its \$15 minimum wage—and its restaurant sector sales grew from 5.4 percent to 6.6 percent from 2014 to 2015, a faster pace than comparable cities like New York.<sup>39</sup>

**San Jose.** In 2012, voters in San Jose approved a \$10 minimum wage by high margins, despite predictions of gloom and doom by opponents.<sup>40</sup> Four years later, the City Council, acknowledging the need for more robust wages, unanimously voted to adopt a \$15 minimum wage.<sup>41</sup> In 2016, University of California researchers released a study of the city's \$10 minimum wage policy. The authors found that the \$10 minimum wage had raised pay without costing jobs,<sup>42</sup> which confirmed earlier observations reported by the media. As *The Wall Street Journal* reported a year after full implementation of the new minimum wage and two years before the study was released, "[f]ast-food hiring in the [San Jose] region accelerated once the higher wage was in place. By early [2014], the pace of employment gains in the San Jose area beat the improvement in the entire state of California."<sup>43</sup>

These positive experiences are some of the reasons that—despite what opponents claim—most business owners and executives are actually comfortable with higher minimum wages. According to polling conducted by LuntzGlobal—an opinion research firm headed by leading Republican pollster Frank Luntz—on behalf of the Council of State Chambers, 80 percent of CEOs, business owners and executives at companies of all sizes support raising the minimum wage in their states, while only 8 percent oppose it.<sup>44</sup> Similarly, among small business owners, 59 percent favor raising the minimum wage, according to a recent poll by Manta.com.<sup>45</sup>

# The Case Against a Youth Wage in Montgomery County

## The Montgomery County Council Should Reject Any Proposal That Would Create an Unfair and Harmful Sub-Minimum Wage for Young Workers

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Lobbyists for low-wage industries sometimes argue that a lower minimum wage for teens or other young workers is necessary to encourage employers to hire teens despite their limited work experience, and to cushion the impact of a higher minimum wage on employers. However, as the next sections explain in more detail, a review of the economic evidence shows that none of these rationales hold up under closer scrutiny, and that adopting a sub-minimum tipped wage would be harmful:

- Rigorous research on the impact of the minimum wage on teens—which compares teen employment levels across regions and states with differing wages floors—shows that a higher minimum wage does not cause employers to hire fewer teens.
- A lower minimum wage for young workers creates a loophole that mainly benefits fast food and retail chains with high-turnover staffing models, and incentivizes more employers to shift to this model and to favor hiring young adult workers over older adults—with harmful consequences for both.
- Close to half of 18 and 19 year olds are college students enrolled in two or four-year programs. The overwhelming majority of them (70 percent) work as they struggle with high tuition costs and the prospect of crushing student debt upon graduation.
- In order to avoid going deep into debt to pay tuition and living costs, the overwhelming majority of Maryland and Montgomery County college students who work 20 hours per week and pay the in-state tuition rate, need to earn more than \$16 an hour today to avoid debt. By 2024, they will need much more.

The Montgomery County Council should reject any proposal than would exempt or institute a lower minimum wage for young workers of any age. Neither the District of Columbia, nor any of the other local or state jurisdictions that have adopted a \$15 minimum wage, have also adopted broad sub-minimum wages for young workers. And in Capitol Hill, *all U.S. Senate and House Democrats representing the State of Maryland* have co-sponsored the federal Raise the Wage Act, S.1242/H.R.15,<sup>46</sup> which calls for a \$15 minimum wage and the phasing-out of the sub-minimum wage currently allowed for teen workers under the Fair Labor Standards Act.

## A Lower Minimum Wage for Young Workers Would Be Harmful, Unnecessary, and Offer Few Benefits to Most Employers in Montgomery County

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Exempting young workers from a \$15 minimum wage in Montgomery County, or adopting a lower minimum wage for them offers few benefits for employers, since **the vast majority (90 percent) of Maryland workers who would be boosted by the higher wage floor are adults 20 or older.**<sup>47</sup>

Nonetheless, a youth wage threatens real harm, as it could incentivize an increasing number of employers to hire young workers in place of adults, and to adopt a high-turnover staffing model to maintain a young workforce. The harm from this policy would befall both young workers—who would be expected to work just as hard as older workers, but for a fraction of what others earn—and older workers, who could face discrimination by certain employers in favor of younger workers.



## The Main Beneficiaries of a Lower Youth Wage Are Profitable Fast-Food and Retail Chains with High-Turnover Staffing Models

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A sub-minimum wage for young workers in Montgomery County would **create a loophole** that would mainly benefit unscrupulous high-turnover businesses, and would encourage other employers to pursue that same harmful business model at the expense of good, stable jobs for workers of any age.

The businesses that utilize a high-turnover staffing model tend to be fast-food and retail chains, which often pay some of the lowest wages while posting high profits.<sup>48</sup> According to some estimates, the rate of turnover for these businesses can be as high as 200 percent on an annual basis.<sup>49</sup> This is the equivalent of replacing their entire staff once every six months.

A youth wage would not only benefit large fast food and retail chains at the expense of workers, but it **would also be unfair to small businesses and to conscientious employers** who already struggle to compete with big businesses while treating their employees (of any age) fairly.<sup>50</sup>

## Students Working Their Way Through College Need to Earn at Least \$15 as They Struggle with Rising Tuition and Debt. A Lower Wage Would Force Them to Work Longer Hours, Increasing Their Drop Out Rates

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Analysis of national data shows that approximately half of all 18- and 19-year olds are enrolled in two- or four-year college or university programs.<sup>51</sup> The overwhelming majority of them (70 percent) work<sup>52</sup> as they struggle with rising tuition and costs of living and the prospect a future mired by student loan debt.<sup>53</sup> In **Maryland**, fast-rising tuition, shrinking grants and scholarships, and a stagnant wage floor have forced many college students to borrow. Today, these students are carrying some of the highest debt burdens in the nation.<sup>54</sup>

Research also shows that many working college students in Maryland and the U.S. struggle with poverty. A worrying **two-thirds of the country's community college students are food insecure**, and **50 percent are housing insecure**,<sup>55</sup> both of which can significantly affect their health, wellbeing and ability to graduate.

In an attempt to avoid crushing student loan debt, and in order to afford food, housing and other basic needs, many students work long hours.<sup>56</sup> But studies of the relationship of work and graduation rates show that **working more than 20 hour per week puts college students at risk of dropping out**,<sup>57</sup> which not only limits their economic futures but also leaves them saddled with student debt.

Although not a panacea, a minimum wage of at least \$15 per hour would enable many working students to limit their work hours to 20 hours per week, helping them to graduate faster and with less student debt. Analysis of tuition costs shows that **in 2015, the typical college student in Maryland, who worked 20 hours per week, needed to earn \$16 an hour to pay his or her way through college**—assuming enrollment in a public institution at the in-state tuition.<sup>58</sup> And with tuition costs increasing faster than inflation, working college students will need to earn even more in the future.<sup>59</sup>

Now more than ever, college students in Montgomery County and throughout Maryland and the country need a \$15 minimum wage. Proposals by the Trump Administration would exacerbate high student debt by slash or eliminate funding for key financial aid programs for low-income students, including Perkins loans, work-study, Direct Subsidized Loans and the Public Service Loan Forgiveness program.<sup>60</sup>

## **Economic Research On the Effects of a Higher Minimum Wage Shows That Raising the Wage Floor Does Not Lead to the Loss of Jobs for Young Workers**

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A recent study by University of California economists analyzed over three decades (1979 to 2014) of teen and restaurant employment data, comparing states with high average minimum wages and those with low average minimum wages (typically, equal to the federal minimum wage). The data did not show disemployment effects among restaurant workers—who comprise a large share of low-wage workers affected by a minimum wage policy—and the effect on teen employment was only a fraction of the already negligible impact claimed by minimum wage opponents.<sup>61</sup>

Previously, in 2011, this same team of economists had analyzed the impact of the minimum wage on teen employment in a peer reviewed study, “Do Minimum Wages Really Reduce Teen Employment?”<sup>62</sup> The study carefully examined the impact of all U.S. minimum wage increases between 1990 and 2009—including those implemented during the recessions of 1990–1991, 2001 and 2007–2009—and found that the even during downturns in the business cycle, and in regions with high unemployment, the impact of minimum wage increases on teen employment was negligible.<sup>63</sup>

# The Case for Eliminating Montgomery County's Tipped Sub-Minimum Wage

## Eliminating the Sub-Minimum Wage for Tipped Workers Is Crucial to Making a Real Difference in the Lives of Low-Wage Workers

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The gradual elimination of the sub-minimum wage for tipped workers is crucial to improving the lives and economic prospects of low-wage workers in Montgomery County. Without it, a significant share of the County's lowest-paid workers will become increasingly vulnerable to poverty. As inflation erodes the real value of the tipped wage, tipped workers will become progressively more dependent on the generosity of customers to earn their livelihoods and avoid poverty.

A sub-minimum wage for tipped workers has not always existed. Until 1966, there was no federal subminimum wage for tipped workers.<sup>64</sup> But 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 law was amended to allow employers to pay tipped workers a sub-minimum wage of 50 percent of the full minimum wage.<sup>65</sup> In 1996, tipped worker's pay decreased further when a Republican-controlled Congress raised the federal minimum wage from \$4.25 to \$5.15, but froze the tipped minimum wage at \$2.13. This policy decoupled the tipped wage from the full minimum wage for the first time in the history of U.S. wage law, setting up over two decades of a frozen minimum wage for tipped workers<sup>66</sup> in most of the nation.

Adopting a gradual elimination of the tipped sub-minimum wage, it would make Montgomery County a "One Fair Wage" pioneer among other local and state jurisdictions across the country. Currently, seven states—Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington—and one city (Flagstaff, Arizona) are One Fair Wage jurisdictions which do not allow employers to pay their tipped staff a lower wage.<sup>67</sup> Tipped workers in these One Fair Wage jurisdictions receive the full minimum wage directly from their employers, and their tips function as gratuities should: As supplemental income over and above their wages, in recognition of good service. Although not technically a One Fair Wage state, Hawaii also abolished the sub-minimum wage for most tipped workers, preserving a very limited tip credit of just 75 cents for tipped workers who average at least \$7.00 an hour in gratuities.<sup>68</sup>

Federally, more than 160 members of Congress and 32 U.S. Senators—including Senators Ben Cardin and Chris Van Hollen, and most of Maryland's congressional delegation—have co-sponsored the Raise the Wage Act, S.1242/H.R.15, which would gradually phase out the tipped sub-minimum wage nationwide.<sup>69</sup>

Although minimum wage opponents in the restaurant industry often claim that most tipped workers earn high incomes and do not need a raise, Bureau of Labor Statistics (BLS) data shows that **the typical tipped worker in Montgomery County earns just a few dollars above the County minimum wage**. According to the most recent BLS data, between November 2013 and May 2016, the median wage for restaurant servers in Montgomery County was \$9.52 per hour *including tips*, and the average was \$11.81 per hour, also including tips.<sup>70</sup> During the period covered by the BLS data, the applicable minimum wage in Montgomery County was between \$7.25 and \$8.25 per hour,<sup>71</sup> meaning that servers in the County earned between \$1.27 and \$4.56 above the wage floor—hardly the type of high incomes that the restaurant industry claims to be typical.

In addition to restaurant serves, other tipped jobs include car wash workers, nail salon workers, and pizza delivery drivers—notorious sweatshop occupations where pay is often even lower than in the restaurant industry.<sup>72</sup>

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. For example, restaurant servers can

earn substantially more 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. Not surprisingly, **tipped workers face poverty at twice the rate of non-tipped workers**, with waiters and bartenders at even higher risk of poverty.<sup>73</sup>

**Tipped workers in Montgomery County and 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 36 percent of non-tipped workers.<sup>74</sup> Ultimately, shifting the responsibility to pay workers' wages to customers under the tipped sub-minimum wage system allows employers in a few select industries to benefit from a customer-funded subsidy at the expense of workers' economic security.

## **The Complex Sub-Minimum Wage System for Tipped Workers Is Difficult to Enforce and Results in Widespread Noncompliance**

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The sub-minimum tipped wage system is complex, difficult to implement and plagued by noncompliance. For example, both employers and employees find it difficult to track tip earnings, a task that is often complicated by tip sharing arrangements amongst workers. In addition, when tipped workers' earnings fall short of the full minimum wage, many will forego asking their employers to make up the difference—as employers are legally required to do—for fear that the employer may retaliate by giving more favorable shifts to workers who do not make such demands.<sup>75</sup>

Given the implementation challenges inherent in the subminimum wage system, it is not surprising that a 2014 report by the Obama Administration's 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.<sup>76</sup> 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.<sup>77</sup>

## **The Maryland Restaurant Industry is Strong, and Montgomery County Can Afford to Adopt a \$15 Minimum Wage without a Tip Credit**

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While restaurant industry lobbyists often argue that eliminating the tipped sub-minimum wage would hurt restaurants and its workers, the facts belie those claims. In particular, the restaurant industry in One Fair Wage states is strong and projected to grow faster than in many of the states that have retained a sub-minimum tipped wage system.

According to projections by the National Restaurant Association (NRA), **restaurant sales are expected to reach \$799 billion this year, a 4.3 percent increase over 2016.**<sup>78</sup> In Maryland, restaurant sales are expected to reach \$12.1 billion this year, and grow by a healthy 9.0 percent over the next ten years.<sup>79</sup>

Many of the states with the strongest restaurant job growth do not allow a tipped minimum wage for tipped workers, and require employers to pay tipped workers some of the country's highest base wages. For example, restaurant employment in California—which has no subminimum wage for tipped workers and is phasing in a \$15 minimum wage—is projected to grow by 10.6 percent during the 2017–2027 period.<sup>80</sup> 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 for all employers by 2023.<sup>81</sup> In Oregon, where the minimum wage is currently between \$10 and \$11.25 and will increase to between \$12.50 and \$14.75 by 2022,<sup>82</sup> and which has no tipped sub-minimum wage, restaurant employment is projected to grow by 13.2 percent during that same period.<sup>83</sup> And in Washington State, where the minimum wage is \$11.00<sup>84</sup>

and will increase to \$13.50 by 2020,<sup>85</sup> restaurant employment growth during the same period is expected to grow by 11.8 percent.<sup>86</sup> According to the NRA's own projections, restaurant employment in the seven states without a tipped minimum wage will grow in the next decade at an average rate of 10.7 percent.<sup>87</sup>

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 minimum wage (including the tipped wage) will raise restaurant industry wages but will not lead to "large or reliable effects on full-service and limited-service restaurant employment."<sup>88</sup>

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Thank you for the opportunity to testify today. I would be happy to answer questions or provide additional information.

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