

Testimony of Yannet Lathrop

National Employment Law Project

Narrowing the Gender Wage Gap by Raising the Minimum Wage to \$21.25 and Eliminating the Subminimum Wage for Tipped Workers

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The National Employment Law Project (NELP) is a national nonprofit advocacy organization that for more than 50 years has sought to build a just and inclusive economy where all workers have expansive rights and thrive in good jobs. We partner with federal, state, and local lawmakers and local community-based groups on a wide range of workforce issues, including areas such as minimum wage, unemployment insurance, wage and hour enforcement, and workplace protections for excluded and underpaid workers.

NELP thanks Gov. Kathy Hochul and the New York State Department of Labor for the opportunity to testify today in support of raising New York's minimum wage to \$21.25 (before beginning to index it) and eliminating the subminimum wage for tipped workers as two key policies for narrowing the gender wage gap in the state.

New York's Gender Wage Gap Widened During the Pandemic—and the State's Eroded Minimum Wage Was One of the Reasons

Prior to the pandemic, New York had been making progress in narrowing the gender wage gap. In 2017, women working full-time, year-round earned \$0.88 for every dollar their male counterparts made. That year, New York ranked third nationwide among jurisdictions with the narrowest gender wage gaps—behind California and the District of Columbia, where women made \$0.89 for every dollar a man made.¹ This ratio of women's to men's earnings in New York remained constant through 2019,² but abruptly changed during the first year of the pandemic when women's earnings fell to \$0.86 for every dollar a man made.³

Research suggests that women's labor force participation—which decreased during the pandemic⁴—affects the gender wage gap.⁵ But another important factor is women's (especially women of color's) overrepresentation in underpaid occupations, including tipped occupations—a factor that predates the pandemic. According to a 2018 analysis by the National Women's Law Center, women comprise 60 percent or more of the workforce in four of the five fastest-growing occupations. Of these, three occupations (personal care aides, home health aides, and combined food preparation and serving workers) are among those that pay the least.⁶

Workers in underpaid jobs are the most affected by minimum wage (including tipped wage) policy. Hence, there is an association between the minimum wage and the gender pay gap: When the wage floor increases, the pay gap narrows⁷ as women typically comprise a majority of affected workers whose earnings are boosted, thereby lifting the average pay for women which affects the ratio of women's to men's pay.

NELP has estimated that between 2012 and 2021 in New York, a larger share of women (29.6 percent) than men (26.3 percent) benefitted from increases⁸ mandated by the 2016 minimum wage law, which raised pay to \$15 in New York City (by 2018), Long Island and Westchester County (by 2019), and upstate more gradually. This translated to an additional \$5,700 annually on average for female workers,⁹ which likely helped boost New York's ranking to the top three jurisdictions with the narrowest pay gaps in the country.

The record high inflation generated by the pandemic¹⁰ has been rapidly eroding New York's minimum wage, likely worsening the gender pay gap.¹¹ The remedy is to *first* raise the

minimum wage to \$21.25 downstate and to \$20 upstate by 2026, so its value is restored, and then index the minimum wage to prevent it from falling behind again.

Raising the Minimum Wage to \$21.25 *Before* Indexing It and Eliminating the Tipped Subminimum Wage are Key to Narrowing New York’s Gender Wage Gap

Experts and advocates for gender equity cite raising the minimum wage and phasing out the tipped subminimum wage as two key policies that would help narrow the gender wage gap.¹²

In her State of the State address, Gov. Kathy Hochul proposed increasing New York’s minimum wage by indexing the state’s current minimum wage—which has been frozen for years at \$15 downstate, and still has not reached \$15 upstate—going forward to ensure that it keeps up in the future with the rising cost of living.¹³ Although inflation adjustments are a best practice, given that inflation reached a 40-year high in June 2022 and in recent years has already significantly eroded the value of New York’s minimum wage, it is crucial that lawmakers first restore the value of the wage floor before implementing automatic cost-of-living increases. To do otherwise would mean codifying wages that are far too low for New Yorkers to make ends meet. The reality is that \$15 an hour is no longer enough for New Yorkers to cover the basics we all need to survive (like rent and food) and to afford to rest anywhere in the state.

New York State legislators and Raise Up New York—a broad coalition of workers, labor, community, and businesses—are proposing an approach that would first raise the state minimum wage to \$21.25 downstate and \$20 upstate by 2026, and thereafter automatically increase it on an annual basis through a combination of rising prices and worker productivity.¹⁴ This legislation, the Raise the Wage Act, S.1978 (Ramos)/A.2204 (Joyner), would deliver urgently needed raises to 1 in 3 working New Yorkers (2.9 million in total, including 1.6 million women).¹⁵ By contrast, Gov. Hochul’s proposal to simply index the minimum wage going forward at its current eroded level would increase pay for a much smaller group—only 1 in 8 workers (approximately 1.1 million in total).¹⁶ Moreover, the workers receiving the pay increases proposed in the Raise the Wage Act would receive MUCH more significant raises: On average, \$3,300 a year or \$63 a week for a full-time worker by 2026—enough to cover some of the higher cost of groceries, diapers, gas, and other necessities. The governor’s proposal would deliver raises only 1/5 as large: \$670 a year or \$13 more a week for a full-time worker.¹⁷

Raising New York’s minimum wage to \$21.25 would substantially raise pay for homecare workers, child care workers, and restaurant workers. These are some of the largest, most underpaying industries, where women are concentrated, and which play a big role in driving the gender wage gap. In fact, in combination with New York’s 2022 legislation, which established a \$3.00 an hour wage premium for home healthcare workers, the Raise the Wage Act would boost homecare pay to \$24.25. That pay increase is not only significant, but would also help attract more workers to this demanding industry, where the state’s need for workers to serve the rapidly aging population is vital.

Hence, the Raise the Wage Act would do far more to narrow New York's gender wage gap than Governor Hochul's indexing-only approach and should be a key piece of anyone comprehensive strategy.

Equally important for addressing the gender wage gap is the elimination of the subminimum tipped wage, which affects more women than men. The One Fair Wage advocacy organization estimates that there are 330,000 tipped workers in New York. Of these, the substantial majority (58 percent) are women.¹⁸ The tipped subminimum wage leads tipped workers to depend on customer tips for a significant share of their pay, which results in widely fluctuating incomes¹⁹ and is one of the main reasons that tipped workers face double the poverty rate of other workers.²⁰

New York has already successfully phased out the tipped subminimum wage for all industries except for hospitality. There is no evidence that ending the use of the tipped subminimum wage was difficult for employers in the car wash, nail salon, and airport industries. It is time for Governor Hochul and the New York State legislature to finish the job and join the growing numbers of states and cities, including the District of Columbia and Michigan, that are in the process of eliminating the subminimum tipped wage for all workers once and for all.

Conclusion and Recommendations

New York's eroded minimum wage and exploitative subminimum tipped wage are key drivers of the state's gender pay inequity. New York can and should make progress towards addressing the persistent and pernicious gender wage gap by adopting a higher minimum wage of \$21.25 per hour by 2026, indexing this higher wage floor thereafter, and phasing out the subminimum tipped wage in the hospitality sector.

Endnotes

- ¹ National Women’s Law Center, *Wage Gap State Rankings: 2017*, <https://nwl.org/wp-content/uploads/2018/12/Wage-Gap-State-By-State-2018.pdf>.
- ² National Women’s Law Center, *Wage Gap State Rankings: 2018*, <https://nwl.org/wp-content/uploads/2019/10/Wage-Gap-State-By-State-2019-v3.pdf>; and National Women’s Law Center, *Wage Gap State Rankings: 2019*, <https://nwl.org/wp-content/uploads/2019/10/Overall-Wage-Gap-State-By-State-2020.pdf>.
- ³ National Women’s Law Center, *Wage Gap Overall State Rankings* [2020], March 2021, <https://nwl.org/wp-content/uploads/2021/03/Overall-Wage-Gap-State-By-State-2021-v2.pdf>.
- ⁴ Kartik B. Athreya and Sierra Latham, *The Pandemic, Child Care and Women’s Labor Force Participation*, Federal Reserve Bank of Richmond, May 2022, https://www.richmondfed.org/publications/research/economic_brief/2022/eb_22-16.
- ⁵ Julie Kashen, Sarah Jane Glynn, and Amanda Novello, *How COVID-19 Sent Women’s Workforce Progress Backward*, Center for American Progress, October 30, 2020, <https://www.americanprogress.org/article/covid-19-sent-womens-workforce-progress-backward/>.
- ⁶ Kayla Patrick, Meika Berlan, and Morgan Harwood, *Low-Wage Jobs Held Primarily by Women will Grow the Most Over the Next Decade*, National Women’s Law Center, August 2018, <https://nwl.org/wp-content/uploads/2016/04/Low-Wage-Jobs-Held-Primarily-by-Women-Will-Grow-the-Most-Over-the-Next-Decade-2018.pdf>.
- ⁷ National Women’s Law Center, *The Raise the Wage Act: Boosting Women’s Paychecks and Advancing Equal Pay*, March 2019, <https://nwl.org/wp-content/uploads/2019/02/Raise-the-Wage-Act-Boosting-Womens-Pay-Checks.pdf>.
- ⁸ Yannet Lathrop, T. William Lester, and Matthew Wilson, *Quantifying the Impact of the Fight for \$15: \$150 Billion in Raises for 26 Million Workers, With \$76 Billion Going to Workers of Color*, National Employment Law Project, July 2021, <https://s27147.pcdn.co/wp-content/uploads/Data-Brief-Impact-Fight-for-15-7-22-2021.pdf>. (See Appendix Table E-1).
- ⁹ *Ibid.* Appendix Table E-2.
- ¹⁰ “U.S. Inflation at 9.1 Percent, a Record High,” *Associated Press*, July 13, 2022, <https://www.pbs.org/newshour/economy/u-s-inflation-at-9-1-percent-a-record-high>.
- ¹¹ Although the gender wage gap in New York and nationwide *appears* to have narrowed during the pandemic, the National Women’s Law Center warns that this is likely the result of labor market shifts, in which women working full-time and earning higher wages were more likely to remain employed during the worst of the pandemic than their counterparts in part-time underpaid jobs—thereby boosting average pay and therefore the ratio of women’s to men’s pay. See National Women’s Law Center, *The Wage Gap Robs Women of Economic Security as the Harsh Impact of COVID-19 Continues*, March 2022, <https://nwl.org/wp-content/uploads/2022/03/Equal-Pay-Day-Factsheet-2022.pdf>.
- ¹² National Women’s Law Center, *The Raise the Wage Act: Boosting Women’s Paychecks and Advancing Equal Pay*, op. cit.
- ¹³ New York State, “Governor Hochul Announces Plan to Raise the Minimum Wage Annually, Helping New Yorkers Address the Rising Cost of Living,” January 10, 2023, <https://www.governor.ny.gov/news/governor-hochul-announces-plan-raise-minimum-wage-annually-helping-new-yorkers-address-rising>.
- ¹⁴ National Employment Law Project, *New York State Should Gradually Raise the Minimum Wage to More Than \$21 an Hour by 2026 to Restore Its Value and Families’ Incomes*, January 2023, <https://www.nelp.org/publication/why-new-york-needs-to-index-its-minimum-wage-now/>.
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- ¹⁶ *Comparison: Gov. Hochul’s Minimum Wage Proposal vs. the Raise the Wage Act*, National Employment Law Project, January 2023, <http://www.nelp.org/wp-content/uploads/Comparison-of-Hochul-Min-Wage-and-Raise-the-Wage-Act-2023.pdf>.
- ¹⁷ *Ibid.*
- ¹⁸ One Fair Wage, *One Fair Wage: The Key to Saving the New York State Restaurant Industry Post-Covid 19*, https://onefairwage.site/wp-content/uploads/2022/10/OFW_FactSheet_NYS_2.pdf. Accessed January 25, 2023.
- ¹⁹ Leo Gertner, *Initiative 77 is a Vital Measure for D.C.’s Almost 30,000 Tipped Workers*, National Employment Law Project, June 8, 2018, <http://stage.nelp.org/news-releases/initiative-77-vital-measure-d-c-s-almost-30000-tipped-workers/>.
- ²⁰ Sylvia A. Allegretto and David Cooper, *Twenty-Three Years and Still Waiting for Change: Why It’s Time to Give Tipped Workers the Regular Minimum Wage*, Economic Policy Institute and UC Berkeley Center on Wage and Employment Dynamics, July 10, 2014, <https://files.epi.org/2014/EPI-CWED-BP379.pdf>.

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