Testimony of
Altaf Rahamatulla
Center for Working Families

To the New York State Wage Board

On Changes to Regulations Governing Wages of Workers in the Restaurant and Hotel Industries

Wednesday, May 20, 2009

For more information, please contact:

Altaf Rahamatulla
Policy Researcher
Center for Working Families

Good afternoon Chairwoman Linda Donahue and esteemed members of the Committee. I would like to thank you for the opportunity to speak today. My name is Altaf Rahamatulla and I am the Policy Researcher at the Center for Working Families. The Center is a policy and advocacy organization that works on promoting innovative solutions to address the problems of New York's working and middle-class families. I am here today to voice support for reforming minimum wage laws for tipped employees and service charges for banquet events.

The Context

New York has the unenviable distinction of being the most unequal State in the entire country. In New York, the top one percent received 38 percent of all income in 2006.[1] The average income of the top 5 percent of families in the State is 15.4 times the average income of the poorest 20 percent.[2] According to the Fiscal Policy Institute, real median hourly wages for New York City workers actually decreased by 1.2 percent in 2008.[3] In addition, the basic cost of living has increased exponentially over the past decade.

The recession has only compounded these inequitable trends. Over 2/3rds of the jobs lost in the City have been in low to moderate wage professions.[4] Furthermore, a combination of State level and looming City budget cuts threaten the vitality of working families.

New York's ability to foster a competitive fiscal climate, guarantee equitable standards, and provide benefits and necessary services to families depends on the response of policy makers to the steep economic contraction. In the midst of the greatest downturn since the Great Depression, New York must take this opportunity to enact progressive reform to ensure future prosperity for all New Yorkers.

The Issues

The New York minimum wage for tipped employees is abysmally low and extremely complicated, as it is composed of nine different wage rates for hotel and restaurant workers based on professional tiers, tip amounts, and whether or not the business is seasonal. This creates a convoluted structure, that is both difficult to understand, and correspondingly, to enforce.

The minimum wage for tipped hotel and restaurant workers in New York is out of sync with other States in the country. Minimum wages for tipped workers are

---

[1] NYS Division of the Budget, Executive Budget 2009-10, Economic and Revenue Outlook
[2] *Pulling Apart: A State-by-State Analysis of Income Trends,* Center on Budget and Policy Priorities and the Economic Policy Institute, April 2008, *http*://www.cbpp.org/states/4-9-08sfp-fact-ny.pdf.
[3] Fiscal Policy Institute
[4] Ibid.

much higher in many states—even those with comparable economies, such as California.[5] In seven states, tip allowances are completely prohibited. As a result, New York is out of step with the predominant safeguards that most states provide these types of employees.

To simplify this structure, New York should consider disallowing tip allowances and order employers to pay these workers at the established State minimum wage, except if the parties enter into a collective bargaining agreement. Doing so would increase overall wages, alleviate some of the pressures of the overbearing cost of housing, food, and healthcare, and "level the playing field" by eliminating the complexity of the minimum wage structure for tipped employees. Moreover, this will augment the ability of the Department of Labor to effectively enforce these statutes. Permitting an owner to opt out by instituting a collective bargaining agreement would allow for an independent enforcement mechanism to uphold workers' rights while also remaining sensitive to the nature of that particular business.

Tipped employees lack necessary protection, can be subject to employer abuses, and must bear superfluous costs that create an even more burdensome professional atmosphere. The State's "ordinary wardrobe" exclusion, which intends to protect workers from additional expenses, is overly ambiguous. Some have argued that the State should adopt the federal "wash and wear" provision, but this would likely place the burden of purchasing, laundering, and maintaining a uniform strictly on the worker. As it currently stands, many already bear this responsibility. The State should not take action to afflict low-wage workers with further financial obligations, and instead, should do away with this exclusion.

In regards to banquet event charges, the State should mandate that all service charges be explicitly itemized, paid completely to employees, and calculated as a percentage of the overall bill.

Low and moderate-income families are being hit the hardest by the recession. The State should do all it can to assist working New Yorkers during this crisis. Accordingly, terms of the minimum wage statute covering meal and lodging allowances, overtime, and uniforms should be afforded to employees that make more than the minimum wage as well.

In a time of economic crisis, the State should explore the aforementioned reforms as to provide necessary protections for working families.

Thank you all for your time and consideration.

---

[5] *Minimum Wages for Tipped Employees*, United States Department of Labor, February 2009, http://www.dol.gov/esa/whd/state/tipped.htm.