

Commissioner Reardon: On behalf of Governor Andrew Cuomo and the Labor Department, I want to welcome you to today's hearing on the Subminimum Wage in New York State.

The Department of Labor works on behalf of both workers and businesses. We provide income support to workers who have lost their jobs and we ensure that employees receive proper pay and work in safe conditions. We help businesses find and maintain a skilled workforce and we provide them with no-cost services designed to help them thrive in New York's growing economy. One of Governor Cuomo's 2018 State of the State proposals directed me to evaluate, through a series of hearings, the possibility of ending minimum wage tip credits in New York State. In some work places such as carwashes and restaurants where wages and tips are generally both low, a worker's income can rely entirely on their tips. These tips meant as a reward for good service, instead serve as a critical wage subsidy that brings worker's wages up to just the legally mandated minimum wage. This system disproportionately impacts women and minorities and prevents some workers from coming forward to voice concerns fearing retaliation. Governor Cuomo has directed this agency to ensure that no workers are more susceptible to exploitation because they rely on tips to survive. This is the second of seven hearings to solicit public comment and how best to address potentially eliminating the minimal wage tip credit. Before regulations are formally advanced related to the subminimum wage, we want to hear from workers about how the subminimum wage impacts their ability to earn a fair wage as it relates to tips and raise a family. We want to hear from businesses and other industry professionals how the subminimum wage impacts how you run your business and interact with your workers. We understand that we are talking about potentially changing rules that have been in place for decades and that is why we are here to ensure any actions are fair and well thought out. Through these hearings, we are asking for input about the scope of the problem and the potential score of our solutions including any hardships created by the subminimum wage. Reasons for and ramifications of eliminating the subminimum wage in your industry. And recommendations for the elimination timeline should we move in that direction and complicating factors. Let me also draw an important distinction here. AS the sign here says, this hearing is about eliminating the subminimum wage. It is not about eliminating tipping. We fully support tipping and workers rights to earn those tips here in New York State. In fact when the federal government looks to attack worker's tips, in New York State we will continue to protect your tips.

Another important point I want to make is that these hearings are not about the number of people in the room. Through these hearings we are collecting your stories, related data and the insights that only you can provide. I'd like to introduce members of our panel of listening today: Mario Musolino, Executive Deputy Commission, Natale Cary, Deputy Commissioner of Administration and Chief Financial Officer, James Rogers, Deputy Commissioner Worker Protection, and in the audience our alternate Milan Bhatt, the Assistant Deputy Commissioner for Worker Protection.

Testimony will be strictly limited to 3 minutes per speaker to allow as many people as possible to testify. In addition, though we value your testimony, we will not allow any substitution of speaker slots or allow testimony to be read on behalf of another individual who is not here. you will get a yellow warning light at 30 seconds left, it will show red when your time is up. Before

we begin, I want to thank everyone here for taking the time to participate in today's hearings and I want to thank you for the insights that you all can provide us to help us address these very important issues. One last point, I understand that this is a very passionate subject for many, many people and I urge all of us to respect the speakers regardless of whether we agree with their point of view or not. Thank you.

Female: So we will have our first five speakers come to the front please, that will be Stacey Carr, Yamila Ruiz, Sean Gavigan, Jeffrey Graham and Orlando Charles. Please come to these 5 seats on the left hand side of the front.

Stacey Carr: I'm going to ask everybody in this room to do me a favor. Imagine the best dining experience you ever had, what made it great? I'm sure it wasn't just because your steak was perfectly cooked, your fries were the right amount of crunch or that your beer was ice cold. I would bet a lot had to do with that experience with the service that you received. The professional servers in this industry enjoy making personal connections with their guests. They strive to make those memorable dining experiences for the folks just like you sitting in this room. Eliminating the tip credit would not allow them to do what they love to do, provide exceptional service through their pride, passion and personality that makes each of their guest's day better. As a business owner, I support 62 families. Eliminating the tip credit would be detrimental to not only my restaurant but the industry. At a restaurant that once supported 20 servers on a Saturday night, I now can only support 16. Just how low does that number go as the wages continue to increase? On a typical 60-minute dining experience, the server spends an average of 7 minutes with the guest. By eliminating the tip credit, I will only have 12 servers at most on the floor. With all these extra tables, how much time will they have to spend with each guest to create that memorable experience? While I understand eliminating the tip credit won't eliminate tipping, I can say that I'd be less inclined to leave 20% when I can't find my server. If the tip credit is eliminated they may earn a similar income but they will have to work twice as hard for it. The support staff is already gone. We took that away when we went from \$5.00 to \$7.50. When we saw that increase, we saw the industry eliminate those support roles, busers, food runners, _____, those positions just don't exist anymore. I recently went out to eat and was told I could pay my bill at the kiosk at my table because and I quote "We don't want to hold our guests hostage but who knows when I will be able to get back over here?" That's not the type of service I want to provide or force upon my customers. As a restaurateur I told you I support 62 families. As wage rise I will be able to support fewer families. I could cut corners but that would be wrong. Speaking of wrong, I heard a lot of testimonials in Long Island that speak to Labor Law violations. I will tell you that if you currently work for somebody willing to break these laws, do you really think they will become a kinder, gentler employer when they have to pay you a higher wage? If you have a dishonest boss, report them or leave. I'm always hiring great people. Please don't allow the actions of a few to ruin the industry I love and prevent me from offering the same opportunities someone once gave me. Thank you.

Commissioner Reardon: Yamila Ruiz. Yamila? No. Okay. Jeffrey Graham

Jeffrey Graham: Well thank you. Good morning Commissioner and members of the panel for this opportunity to discuss the tip wage proposal and the effect it and other policy has on small business, and welcome to the North Country. My name is Jeff Graham. I had the honor of

-serving as Mayor of this city for 20 years and for the past 33 years I've owned a neighborhood tavern called The Pearl Street Pub. Signing the front side of a paycheck, the times you wonder if the doors can stay open and the lost sleep over making payroll tends to steal one's attitudes towards further regulations and mandates. Recently, I received my liquor license renewal and in a letter accompanying the license was not a thank you for my 2 grand but an ominous notice to comply with an expanding list of regulations. The letter said the SLA is part of a joint taskforce on employee misclassification and worker exploitation. The premise of all this is that we as businessmen and women are exploiters. Well I look at myself as the one who sometimes has to make less so I can make payroll. All I see from Albany are new regulations on how we schedule, a family leave act we don't need, compliance audits that stress a business with no HR office, mandated increases in wages that bear no relation to the marketplace. As a tavern owner with only one person on duty, I've never used the subminimum wage but I understand my restaurant brethren and their dismay. To attract good people, I depend on being able to offer a better wage than say a restaurant server. I pay my head bartender \$13.00 an hour and overtime is \$19.50. She a good employee and with tips this 21 year old does quite well. You see I believe good people should make more money. As the minimum wage goes higher I'll be forced to pay her \$20 an hour and the economics just don't work. to make even higher wages work, we'll have to have fewer people as drastically higher prices will not be accepted by our clientele. Nobody in the City of Watertown has ever gone to the Four Seasons for a \$50 hamburger. I've read of some trying to frame this pay issue as a racial or discrimination issue. It is said the system promotes abuse of women. All of this are false smears and political sophistry. We care about our employees, our business and our customers. Proposals like this enacted without the consent of the govern through our elected legislature are wrong and are death on the entrepreneurial spirit. This may be the new New York but it's not a better New York. I urge rejection of this initiative, it is clearly a solution in search of a problem and will only hurt small businesses that are the backbone of our local economy. Commissioner I thank you and the panel for your attention and hope you enjoy your stay in Watertown.

Commissioner Reardon: Orlando Charles, Orlando Charles. Do I have Orlando Charles? No. Mea Johnson. Mea, Mea Johnson. David Neil. David. Okey dokey. Rhonda Carlisle.

Female: After Rhonda our next five speakers are David Jimenez, Josh Kellermann, Sonya Ward-Ough, Karyn Korteling, and Michael Lettiere. If you're one of those people please come to the 5 chairs in the front and give me the copies of your written testimony so I can provide them to the panel when you go. Thank you.

Rhonda Carlisle: Good morning. My name is Rhonda Carlisle, I've been in this business 31 years, I started as a host cashier. At the time I started subminimal wage was \$1.90 an hour. I am very nervous.

Commissioner Reardon: Relax, we don't bite.

Rhonda Carlisle: I will be honest, when I started I was a single mom, I worked 20 hours a week making as much money as people working 40 hours a week. I was able to not pay a babysitter, be able to pay my bills without using any kind of form of welfare or help from the state. I am now a manager at a Hilton Garden Inn, my employees range from making \$15 to \$20 an hour

working 20 to 30 hours a week. I don't see any benefit to our guests, our employees or even our business. My employer will have to cut our amount of employees once this minimum wage goes into effect. And as far as eliminating tipping, people will not tip as much as they do now knowing that our employees already make minimum wage. Just a for instance, we do a lot of functions at our place. My employees work a 5 hour function and if they had stuck to the minimum wage they would have made \$52 for that evening. Instead, with the 18% gratuity already added in, they make \$140.50 a piece that day. That's triple what we are saying you want to pay these people. Serving, delivery drivers, these are manual positions. There is a lot of physical labor that goes into what these people do every day. I really think the Governor should maybe step in our shoes for 24 hours and see what we do. We deserve more than minimum wage. We earn our money and we continue to want to earn our money. I think the Governor is taking that away from us and away from our employees. I'm a very simple person, like I said, I do not have a high education but this business has made me be able to take care of my family, my children, my grandchildren. I can't imagine going to a minimum wage position and working this hard. That's what I have for you today. Thank you for your time.

Commissioner Reardon: David Jimenez, followed by Josh Kellermann.

David Jimenez: Good morning. Commissioner Reardon and members of the Department of Labor, I want to thank you for convening these hearings and giving us the opportunity to testify on why carwash workers need to have one fair wage plus their tips. My name is David Jimenez, I'm a lead organizer in the retail/wholesale department store union carwash campaign. For the past 6 years, my union has been part of a coalition with _____ New York and Communities for Change with the goal to improve working conditions for the carwash industry. Over the 4 years the carwash campaign has been organizing carwash workers the campaign represents, I've seen some improvements in salaries, vacation times, sick days. More importantly, respect. However worker time and time again feel that their skill and hard work is not properly compensated. Tips are given by customers for worker's good service and not to help the employer pay for their workforce. Carwash workers are not just drying cars, once the tunnel brushes do the cleaning job. Carwash workers have to up sale washes, drive, maintain equipment and do industrial cleaning to say the least. Carwash workers have to work with strong chemicals for long and constant period of time without any training and with very little protective equipment. One of the most dangerous and dirtiest jobs in the carwash industry for example is that of cleaning the pit. The pit is part of the recycling system that stores water as well as mud which consists of a cocktail of detergents, dirt, salt, strong chemicals that marinate many times for months. Carwash workers are sent to do this very specialized cleaning job with no training, no protective gear and in confined spaces which are not properly compensated. An important part of the carwash business is their detail service. These types of jobs are specialized services assigned to experienced workers. These types of deep cleaning jobs can take a worker an hour up to several hours using specialized machines like buffers that can burn the paint off the car if not used properly. Workers who are detailers or detallistas in Spanish take pride in their work as many times customers come specifically looking for them to detail their cars. But this type of cleaning jobs also take toll on worker's health. Many times they perform outside exposed to weather with most of the time heating and summer and chemicals. It will also cause many health issues to my detail members from asthma to skin irritations. I just wanted to finish

up to thank you, thanking the Governor and hopefully we can have one fair wage plus our tips. Thank you.

Commissioner Reardon: Josh Kellermann followed by Sonya Ward-Ough.

Josh Kellermann: Good morning. Thank you for the opportunity to speak today. My name is Josh Kellermann, I'm the Director of Public Policy for the Retail/Wholesale and Department Store Union, RWDSU. We represent over 100,000 workers primarily in retail, food processing and other low wage sectors including the carwash industry. Carwash workers want a minimum wage that they can rely on. They want the same minimum wage that nearly all other workers in this state receive. It is unjust and discriminatory that these workers are singled out for a subminimum wage. We are thankful that the New York State DOL is turning its full attention towards ending the subminimum wage and creating one fair wage with tips. Working at a carwash is a tough, low paying and dangerous job yet RWDSU workers working with our community partners manage to organize dozens of carwashes, improving the lives, working conditions and wages for thousands of workers. On behalf of our workers as well as the many other workers in the industry that do not have a collective voice on the job, we are requesting an end to the subminimum wage. From the beginning carwash workers have complained about the subminimum wage. It is a confusing and convoluted system. It is hard for anyone to understand how the system works. Wage theft and other forms of worker abuse thrive in confusing regulatory systems, as advocates, enforcement agencies, and even employers can't make heads or tails of the law. The subminimum wage policy in New York violates the simple rule that we learned as children, KISS, Keep It Simple Stupid. On the last page of my testimony, you will find a table that attempts to explain the current tip credit system. What should be clear from this table is how complex the subminimum wage system is when compared with one fair wage. As you can see from this graph, I'll show it around as well on the left and right are the different subminimum wage systems in blue in the miscellaneous industries which include carwash, nail salon, parking valet attendants, etc. and on the left is the hospitality industry which is primarily restaurant workers. In the center is what one fair wage would look like which is simply one wage. One minimum wage, of course, people could earn more than the minimal wage as they already do and would continue to do and tips would be allowed on top of that. It just simplifies the system. and in a simple system you can much more easily address issues of wage theft. There are several other reasons to end the subminimum wage and replace it with one fair wage. In the carwash industry there's no customary tipping practice. Is it 10%, 20%, \$5.00, \$1.00? Actually many people don't think they even need to tip at all because they don't know that these workers earn a subminimum wage. In addition, carwash work is seasonal. Workers never know whether they will earn enough in a particular day to pay rent or to buy food next week. They cannot rely on tips to make ends meet in that industry. And let's not be fooled here, raising the subminimum wage will still allow workers to earn tips, raising the subminimum wage raises in flare in which all tips are earned and we encourage the DOL to end subminimum wage and retain tips for workers. Thank you.

Commissioner Reardon: Sonya Ward-Ough. Sonya are you here? Karyn Korteling, Karyn Korteling. Michael Lettiere.

Female: After Michael our next five speakers are Sara Palmer, Kathy Tucker, Mary Wilsie, Mark Keller and Kevin Goggins. If you're any of those five people please come to the front here. If you have written copies of your testimony please give them to me before you speak. Thank you.

Michael Lettiere: I'm sorry Board I didn't have anything written, I feel I'll just shoot from the heart. My parents and grandparents always told me to speak from your heart. And this restaurant industry, I've been working in _____ for 7 years. It's allowed me to have a better quality for life for not only myself but my family and it's also allowed me to pursue not only several degrees but also my Masters Degree. I will becoming soon a New York State teacher. Thank you. I love this state. I want to make this state even better but to do this we might even remember that other people are trying to make their lives better. Not only are we striving for the top, we are also using the fuel of our dreams to power us. We all use our dreams to help us go forward to help us work harder to work better. If we have one fair wage, which I call it, other people won't have an incentive to work harder. Does a plumber make as much as a doctor? Or does a car valet make as much as a doctor? I mean there's no correlation. I'm sorry, I'm rambling. But my main thing is without this job I wouldn't have been able to get to where I am today. Many of us are single parents among us have other dreams and aspirations. This is a stepping-stone to something greater than ourselves. I believe even people like Sarah Jessica Parker who has spoken against our tipping wages our sub minimal wage but she wouldn't get here any other celebrity wouldn't get where they were if it not for their serving job. So I think the question to you, I please beg to you to reconsider this legislation. I really implore you to seek out even I invite you to come work with me. I'd be more than happy to show you the ropes. Don't worry you don't have to handle the food, I'll do all the work, maybe I'll cut you in. Well thank you very much for your time and hopefully will come to some resolution. Thank you very much for your time.

Commissioner Reardon: Thank you. Sara Palmer. Sara.

Sara Palmer: Good morning and I'd like to thank Commissioner Reardon and the New York State Department of Labor for allowing me to share my comments today. My name is Sara Palmer and I currently live in Albany, New York but I was born and raised in Jefferson County, specifically the Thousand Islands. I've lived here for more than half of my life. I have personally not stayed in the area because there aren't many job opportunities that pay a wage to cover the rising costs of living here over the years which has drastically skyrocketed. If you do not have a college degree, work in healthcare, or don't join the military then the job options are retail, a factory or mill, construction and the restaurant industry which is one of the top industries on the rise nationally, while simultaneously being one of the lowest paid jobs with wages. I've had a lot of family and friends work in restaurants across the North Country over the years and while the summers may be great for pay because of the tourists who flock here, the winters are less than desirable. I know people have had to work more than one job to make ends meet. Women in my life who have felt they needed to agree to meet customers back in their rooms while working in resorts because of possibly not earning the best tip, or who have been penalized and not given a tip based on circumstances out of their control like a customer not liking the taste of the actual meal. And I've spoken to workers who have children that aren't able to work the shifts where they'd make the most money because of lack of childcare. As a consumer, I expect the employer to pay their workers a full wage. A tip is to reflect the service received not a means

to subsidize a wage. In New York State we decided that \$10.40 an hour is the minimum wage required in order to survive. Yet we have an entire group of the workforce who are still earning the subminimum wage \$7.50 an hour. The subminimum wage dates back to the emancipation of slaves when the restaurant and train industry replaced newly freed slaves in establishments where they had to rely on tips as their source of income. New York is better than that, especially when we take pride in being a progressive state and leader in our nation. Sure there's a tip credit yet the Department of Labor itself has found that 84% of restaurant employers are falsifying or overestimating worker's tips which then leads to workers having to rely on their tips alone. I have heard these exact testimonies from workers in Jefferson County I've spoken with some saying, I don't even look at my paycheck because it's just a voided check. Let's also not forget if these workers are not earning a paycheck then FICA taxes are not being paid. How does this fare when tip workers go to file their taxes or go to retire? I had workers who wanted to be here today to share their stories from Jefferson County but due to the hostile climate, fear of retaliation from employers and paid lobbyists presenting information, playing on fears of the restaurant workers, they have decided to write written testimonies to remain anonymous from their employers. Thank you for listening.

Commissioner Reardon: Thank you. Kathy Tucker.

Kathy Tucker: Thank you Commissioner Reardon and the New York Department of Labor for giving me this opportunity to share my comments about Governor Cuomo's proposal to examine raising the base wage paid to tip workers to the regular minimum wage. My name is Kathy Tucker, I live in Carthage, New York where I have lived for basically all of my life. I go to restaurants all the time. When I dine out I expect to receive good service but I also expect that all of the restaurant's workers are being treated with respect and paid a living wage by their employer. No matter what workers are paid, I would never think of not tipping a server for the service that they give me when I'm in restaurant. My tip though is not meant to be a substitute for a worker's base wage or subsidy for employers so they don't have to pay a fair base wage to their workers. My tip is meant to be a supplement an acknowledgment of good service, a thank you for the service on top of a fair base wage the server should be receiving. In non-tipped industries, employers are paying their workers a living wage, it should be in the same in tipped industries. Workers who live on subminimum wage face disproportionately high poverty rates and are often forced to seek public assistance to keep themselves and their families afloat. Customers are expected to pay a substantial portion of these worker's wages via tips and taxpayers wind up funding the public assistance these workers so often find themselves in need of, all because we have policies in place that allow employers to underpay their workforce. This is wrong. We need one fair wage now. Thank you.

Commissioner Reardon: Mary Wilsie.

Mary Wilsie: I apologize, I don't have anything written.

Commissioner Reardon: That's quite alright.

Mary Wilsie: Commissioner and Panel thank you for the opportunity to come out and support the employees who work diligently in the service industry on a daily basis. I'm here to support the

service industry workers and their efforts in removing the subminimum wage. As a consumer in the service industry, when I got out to have dinner or a meal, its never in the back of my mind that this person is being paid a subminimum wage. All my focus is, is on paying my bill and if I get good service, I leave a good tip. That tip is meant for the server to show my appreciation for a job well done. It's not meant for the owner of the restaurant to say, "Well you got this much money in tips so I only have to pay you this much money an hour to compensate and make up the difference". That's not what a tip is meant for. Also, there's many different types of service workers and some of those people who work in a service area, they get paid an hourly rate of pay but they maybe don't make tips. It doesn't matter to me whether a person is serving a meal in a restaurant or what their job is in the service field, they deserve to be paid the same amount of pay as anybody else. And I think that it's unfair for the owners of these restaurants and eating facilities to not be supporting that. Because if you pay an acceptable wage, you will get acceptable workers.

Commissioner Reardon: Thank you. Mark Keller.

Mark Keller: I extend sincere appreciation to Commissioner Reardon and the Department of Labor for brining this listening forum to the North Country. Regardless of where our politicians say upstate is, we are upstate and we count. I address you today not as a current server or restaurant owner but simply as a customer, a taxpayer and a voter. I don't pretend to have as much skin in the game as say a server here or an owner but I do feel I represent an essential point of view as a customer. My position would be as follows:

1. Leave it alone. It isn't broke. I guess other people feel that too. It's not broke, it doesn't need to be fixed. Big brother Andrew doesn't need to fix it, unions don't need to fix it, social theorists don't need to fix it. I believe that people will fix it themselves if they find it broken. What is broken is Governor Cuomo's rhetoric where he insists that servers deserve to make minimum wage and yet, by all accounts, they already do. Thanks to the tip credit. I also believe that servers deserve not to be labeled as minimum wage employees but rather they deserve more, they typically earn more even if their W2 doesn't say so. It seems odd to me as a customer and a resident of New York State that the State and Department of Labor would look to propose to actually reduce the real earnings of tip servers by employing this charade of getting them up to the minimum wage. By all accounts, they're already there. Does Governor Cuomo and other progressives have some other silent agenda that's really at work here?
2. If change is considered necessary on behalf of those poor servers, I suggest that New York State give the servers the right to vote for themselves. Don't listen to other people who aren't in their shoes. If, for instance, the legislature, the Governor, dues hungry unions or others want to propose that they need more, let the servers vote and give their indication of what their desires and needs are. If owners are so bad to employees as some uninformed have said, then empower the servers to have the final voice. At least while they're here and you're here listen to them and give their testimony the respect they deserve. You'll be hearing, I'm sure, from those today and others across the state in the days ahead. Thank you very much.

Commissioner Reardon: Thank you very much. Kevin.

Female: After Mark, or after Kevin our next five speakers are Kristen Petrillo, Suzanne Adely, Mark Frantz, Maggie Raczynski and Ashley Kalman-Smith. If you're one of those 5 people please come to the front and give me any written testimony you may have. Thank you.

Kevin Goggins: Thank you for allowing me to speak to the Commissioner for speaking and listening to the opinions of those who actually work in the industry day to day. I'd like to call your attention to the vast majority of what has been discussed in previous hearings and over time by the other side about what happens in the industry. Many of these things are covered under current and existing law. Specifically the Wage Theft Protection Act, Labor Law Section 190.60 as well as the Governor's Joint Taskforce which was formed to root out just such causes as these folks discussed; stealing tips, not paying overtime, not paying folks a three hour show up pay, not paying the employee makeup pay if they do not make enough to cover the tip credit. All of those are illegal and covered by these statutes and taskforce. To discuss the makeup pay issue itself, in my specific business we had over 327,000 man hours in 2017. Slightly over \$2.4 million in pay. I only paid \$195 in makeup pay. That's the difference paid between if a person didn't make minimum wage. \$2.4 million. I tried to calculate it, there weren't enough zeros on my calculator to give you a percentage, extremely small. Our tip service and bartenders average over \$17.00 an hour. It is very clear ample law already exists to address any issues that are brought up. The issue comes down to enforcement of those laws to make sure that all tip workers earn what they are due. But that will not be fixed by eliminating the tip wage. It is equally clear that tipped employees make well over the amount now when tips are combined with hourly pay. I have had the opportunity since December, when the Governor announced this potential proposal to speak with well over 400 tipped employees, many that do not work for me and I just stopped in their restaurant and asked. I'd encourage you to do the same. All over the state and in all forms of businesses from breakfast counter places, Stella's Diner in Syracuse, great place, I suggest you stop in, from breakfast counter places all the way to fine dining. I have had zero tipped employees tell me that they thought eliminating the tip credit was going to be good for them. I have also asked them, "What was the outcome when the wage went from \$5.00 to \$7.50 less than 2 years ago. They say on average they take home less than a dollar an hour more than they did prior, yet it costs the employer \$2.50 plus tax. As hours and positions were cut to pay for this last increase and restaurants closed and that dollar can easily be made up many times over by the tables they had, this again shows no need to increase their pay as they don't see it in their check. I'm in the process of tracking down just exactly where the rest of that \$2.50 went plus taxes and when I hope to find out, I'll keep you updated. To give some financial context on how much this increase will cost folks close to look at an example, a restaurant in 2015 did \$2.5 million it costs them over \$112,000. If this goes through, they will lose next year they will lose \$160,000. Close.

Commissioner Reardon: Thank you. Kristen Petrillo. Kristen Petrillo. Suzanne Adely. Is anybody standing up, Suzanne Adely? Nope. Mark Frantz.

Mark Frantz: Good morning thank you again for allowing everybody to come in and speak to this topic. I represent a large employer, Hart Hotels. We own multiple properties throughout the East Coast. We have four large hotels here in New York, Thousand Island Harbor Hotel in Clayton represented by RGM here today, Hotel Ithaca in Ithaca, RGM is here as well. And we have a new property opening in Chautauqua in mid July. I brought you some information here

today that I will leave with you. I've taken the names and addresses off. This represents over 200 New York employees in 2017 in our operations that averaged \$17 to \$25 per hour in our restaurants and \$25 per hour plus in our catering facilities. So you've heard time and time again, this is a solution in search of a problem. I don't know where you're getting your information from but it doesn't represent how we operate and for the record, we run all of our tips through payroll so we pay 100% of the appropriate taxes that are recorded. And lastly, this represents not including the Chautauqua Hotel this represents about \$1.7 million increase to our company over a four year period. If you don't think that's going to fundamentally change how we operate, it will and everybody in here; some places will close, some places will no longer offer certain services, lunch, closed for certain days. The bigger operations will find a way but they don't eat that, they won't absorb it, they will fundamentally change how we operate and it will affect so many people. It's called unintended consequences and somebody in Albany needs to pay attention to that because it happens all the time. Thank you.

Commissioner Reardon: Maggie Raczynski.

Maggie Raczynski: Hello again, esteemed members of the Department of Labor. Last week I sat in front of you and talked about the 19,000 now almost 21,000 people in my groups, Quarters of the Tip Credit at NY. This week I want to talk to you about me. my very first job after babysitting was being a busser at a restaurant, a restaurant that no longer has bussers. Fast forward 5 years and I was an expeditor at a restaurant, a restaurant that no longer has expeditors. I don't want to fast forward 5 years from today and say that I was a server at a restaurant that no longer has servers. The restaurant industry, not just the job of being a server but the entire industry has done so much for me throughout my life. I went to community college and paid for it all on my own with no financial aid and I was able to pay for it because of the restaurant industry, not just tipped positions either. I was a busser, dishwasher, fountain workers, short order cook, host, expeditor, manager, server and now bartender. I finished my degree online and I'm only able to pay my student loans now because of this industry. When I was a student the industry helped me because it was flexible and a great way to make money to pay my tuition and bills. I could easily work more than one job as well, as I did most of my life because as with most Americans we spend beyond our means. I was raised by a man that said, "If you don't have enough money, get another job". I have always enjoyed working in the restaurant industry. Restaurant people are fun. The people you wait on for the most part are very interesting and willing and wanting to chat. It wasn't long after I finished my 4 year degree that I settled down, bought a house and started to have children. When we were preparing to buy our house, serving was a great way to make extra cash. Once we had our first child it was the best way for me to work flexible hours as I had no childcare and didn't want to pay for daycare. Now I have 3 growing children and this industry is the best way for me to be home with my kids during the day and work at night when their father is home. My point is that this industry has provided so much for me and my family and so many others. The system that is in place now works for so many people. Most of the concerns I heard at the last hearing had to do with Labor Law violations. There are laws in place for a reason and employers are breaking them. The entire industry shouldn't be punished for the actions of a few bad people. The changes being proposed, while they would not outlaw tipping, have a detrimental effect on the tipping structure in this state. I read someone's comment on an article after the Long Island hearing and it said, "If prices go up and their salary goes up tip 10%". Here's the math on that statement. I currently make \$500 a week in tips earning roughly

20% of my sales which would be around \$2500. If the cost of food goes up 20% those sales would now be \$3000 dollars, 10% of that is \$300 and my paycheck only went up \$60. I have essentially lost \$140 every week and that man doesn't feel bad because my salary went up. Please, I beg of you listen to the people of this industry that have come here today and wish they could be here.

Commissioner Reardon: Thank you. Ashley, Ashley Kalman-Smith.

Female: After Ashley our next 5 speakers are Joedy Hill, Gary Williams, Michael Simpson, Aletea DeCuffa-Morales, and Denise Cuiffo. Please come to the front and please give me any written copies of our testimony.

Ashley Kalman-Smith: First of all I want to say thank you for allowing me to speak about this most important issue as well as give you a short introduction as to who I am and why I'm speaking about the tip credit in New York. My name is Ashley and I'm a 34 year old single mother to a 13 year old daughter. I'm also a bartender in Lake Placid. I've been in this industry off and on for 12 years. I've also held many jobs in many different areas throughout my working career. I worked in retail for Casella Waste and I was an Administrative Assistant at a hospital. I've made \$15 an hour and while I was making \$15 an hour I still had to bartend 3 nights a week on top of my full-time job to maintain my lifestyle. By maintaining my lifestyle I mean paying a mortgage, keeping food in the house and paying that ever increasing heat bill in the winter. I do not live outside my means, I am simply surviving in an already poor economy with limited job opportunities. I was able to do this because of my second job which not only allowed me to provide for my daughter but gave me a sense of self. The second job slowly turned into my main job and I have never been happier. The sense of fulfillment I receive from this job is priceless. The fact that I get to maintain a happy life, flexibility to spend time with my daughter and do what I love almost seems surreal at times. What seems more surreal though is having to explain and plead with you now on something so important to not only me but thousands of others. When I say this job saved my life that is not an exaggeration. I was able to escape an abusive relationship and move into a town where I only knew one person and not only managed to provide for myself and my daughter but thrive. I would not have been able to do so if it wasn't for my previous work skills as a bartender. Anyway enough about me, because honestly my main concern is not for me. My main concern is for the hard working families and business owners who this affects first and foremost. My concern is for the already empty storefronts that are plaguing Upstate New York. Our economy, my beloved town cannot survive the elimination of the tip credit. I appreciate where you think your efforts lie, its commendable if it wasn't so misguided. If you're concern truly is for us then please continue listening to us. We're here the people who work in this industry day in and day out we're telling you we do not need nor want this. I have never met more strong, outspoken tenacious people in my life than I have in this industry. If the injustice and immoral behaviors of certain business owners was such an overwhelming problem to justify this proposal you would have heard about it by now by thousands and very loudly. At the end of the day this is the question of basic fairness. Eliminating the tip credit is not fair and will destroy this industry on every possible level.

Commissioner Reardon: Thank you. Joedy Hill followed by Gary Williams.

Joedy Hill: Good morning. I really didn't write anything I'm just speaking from my heart. After 40 years in this industry, starting when minimal wage was \$.35 an hour for a waitress or server, this is an amazing amount of money for a server and when we go into this business we know what we're making. We know when we get hired we're starting at \$7.50 an hour because we know we're going to supplement our income with our tips because people that are in this industry are usually very outgoing happy people that give good service because they enjoy what they do. That's speaking for myself, of course. I have come across other people that aren't quite so wonderful. But it is the way it is. and as for these people who think as never been in the business that they don't think we're making enough money, they should walk in our shoes for a little while. It's not an easy job but it's a fun job and helping other people and I believe that's what I'm doing. People come out and they want to have a good time, they want good food but all in all they really just want a little bit of comradery and can supply that. we don't need to be making \$10.50 an hour to do that because realistically that's not a living wage. If you really wanted to pay a living wage we'd be making \$20 or \$30 an hour and as a waitress with my tips, I'm pretty much making close to that \$20 an hour and that's a whole lot more than \$10.50 an hour. And I can't believe any of you people are working for minimum wage realistically, I may be wrong. But I don't think anybody sitting in here is making \$10.50 an hour and considering that a living wage. At 62 years of age, I'm getting my social security, I don't want to work 40 hours a week to make a couple hundred dollars. I want to spend time with my children and my grandchildren and being a server I can do that. I can make enough money in two nights so that I have 5 nights to spend with my family. Thank you very much.

Commissioner Reardon: Thank you. Gary Williams. Gary Williams. Michael Simpson. Are you Gary? I'm sorry. You're Michael?

Michael Simpson: Yes. Good morning. I just want to say thank you to everyone who is here for supporting what they think is right no matter which side they're on. And also thank you to the State of New York for hopefully listening. You will now find out why public speaking is not how I make a living. When the United States declared independence in 1776 America was already a tipping culture. The concept had started in England well before we became a country and we have a remained a tipping culture for more than 240 years. The State of New York, as well as other states, have recently made adjustments in how servers have been paid. Currently, when New York State cut the tip credit in half a couple of years ago which increased the wage rate for servers by about 50% that was a large increase for the group of restaurant employees that were making the most money in the restaurant. That one change cost our business about \$30,000 in one fell swoop. Coupled with the minimal wage increase in the last 3 years, our payroll has increased by 38% while our sales have increased by half that or about 19%. The minimum wage increase has also hugely helped the 16 year old dishwasher who, by the way, has no real expenses other than perhaps gas for his parents car. Complete removal of the tip credit will cost our organization another \$35,000 more in payroll which is getting close to let's just call it scary. Restaurants will close. In a slightly more aggressive wage area like San Francisco, restaurants with a yelp rating of 3.5 or less are pretty much toast. They are folding up and closing their doors and you can Google that. New York State will probably follow that example, I'm sorry New York City will probably follow that example if the tip credit is eliminated. We haven't talked about the back of the house employees who have been dealing with fairly miniscule pay increases while the people that are making the most in the restaurant as well as the dishwashers

are now making even more. Where will the money come from to give back to the hardworking moderately low paid prep cooks, salad cooks and line cooks a decent pay increase? Well I have an idea, okay so its not my idea. What the Clipper may have to do is become a non-tipping establishment. We will impose a service charge of 15 to 20% on all checks. The money will be controlled by the owner or corporation and it will get distributed how the corporation sees fit. All of a sudden the increase in pay that servers were going to get has evaporated and a 250 year old tipping custom is gone or horribly disfigured for no good reason. In conclusion, its easy to see why servers don't want this elimination of the tip credit. It could be the beginning of the end for their moderately well paid job. Perhaps the Governor is really trying to instigate a pay raise for the back of the house employees and secretly wants to cut the pay to servers. This Governor is a very tricky guy.

Commissioner Reardon: Thank you. Aletea, Aletea DeCuffa-Morales, Aletea DeCuff-Morales, Aletea? No. Dennis Cuiffo. I'm sorry Denise Cuiffo. Denise, okay. Christopher Tripp.

Female: After Christopher our next 5 are Nicole Tortatice, Marie Medina, Ashley Trimm, Susan Mereza, and Amanda Broderick. If you're one of those 5 come to the front and give me any written testimony you might have, thanks.

Christopher Tripp: Hello my name is Christopher Tripp. I would like to start off by saying that I'm an introvert and I have a huge fear of public speaking but that's just how much this issue means to me. I'm a waiter at the O'Brien Inn in Saratoga Springs. I'm an introvert that is able to do my job that requires me to be social though it may be tough at times. Because of my place of work and the comfortable atmosphere at my place of work, I am able to do my job very well. the industry has actually saved my life. I come from a family riddled with drug addiction and alcoholism. As a 15 year old high school student if I wasn't in school or doing homework, I was working. I was too busy to partake. I never had the opportunity. If I hadn't started at the restaurant business in an entry-level position who knows where I would be today. If the tip credit is eliminated these opportunities for kids may not be possible. These entry level positions won't be available, that is the future of the industry the future servers and bartenders and managers. Its not only the service staff that will be affected either. The kitchen side of it may change as well. no bonuses or raises in the future, fewer hours, more work and the same hourly rate. The industry as a whole will be affected tremendously. I feel very passionate about this because my restaurant is my family, that's right my family. They have been there for me through all of life's struggles. They have seen me more and know more about me than members of my blood family. It would kill me if their lives and jobs were forever changed because I got a raise to \$15 an hour which I did not ask for. I would hate it if one day they just started to disappear.

On another note, I feel for these people on the other side of this that have to work for these evil business owners. It is already illegal to steal wages, not pay your employees, not give your employees a break and to sexually harass your employees. You're right, that is slave labor but it is not fair to compare these business owners to the owners that do things by the book and professionally. My owner, Steve Sullivan is the nicest and most caring owner that I have ever had the privilege to work for. He genuinely cares for his employees, he makes you know it straight from the beginning. He works just as hard as we do if not harder and there are more

employers like that in the Saratoga area and all over New York State. If you can't treat your employees right you just probably should not be in business plain and simple. Thank you.

Commissioner Reardon: Thank you. Nicole Tortatice. Nicole Tortatice. Marie Medina. Marie. Ashley Trimm. Ashley. Susan Mezera.

Susan Mezera: I'm Susan Mezera. I've been a server for 43 years. I currently work at the O'Brian Inn in Saratoga. I love my job. I've earned a good living all these years, I could retire tomorrow, just walk away. But what I cannot walk away from are all the people that would be adversely affected if the tip credit is eliminated. When the labor cost is increased it will have to be made up in some way. Restaurants already operate on a very small net percentage. Price increases will hurt the customers. They may not feel the need to tip as before, hurting the servers. Cutting labor costs will hurt the extra support staff, busers, hostesses, extra dishwashers and cooks. Many jobs may have to be eliminated to compensate for the increase. I'm also here to speak for a whole generation of servers who have made this their career for their entire life. I've been speaking with many friends and people I've worked with over the past 43 years. they've put in 30 or 40 years as a server with no college education, no training in anything else and they are very worried. They are single parents or just people on their own with no family to lean on. They still have 5 to 10 years before they can collect on social security. Your social security builds as you continue to work and they're hoping to build it to a level they can live on when they decide to retire and for so many that's all they have to count on. For me, if I work 3 more years till I'm 70 I'll increase mine \$400 a month more than right now and that's a lot to give up. Many restaurants are not going to make it, we know this. Maine is proof of what will happen. Restaurants are still dealing with the \$2.50 an hour increase from 2 years ago. You cannot continue to make a living with minimum wage and tips of your job is gone. Who's going to hire 55 to 60 year old people with no college or training and pay them what they're making now? What will happen to them? Please don't eliminate the tip credit it will hurt many more than it will help.

Commissioner Reardon: Thank you. Amanda Broderick.

Female: After Amanda our next 5 are Kim Gioia, Gordon Clarkson, Tiffany Hodum, Mara Parker, and Carlos Morales. Please come to the front.

Amanda Broderick: Hi, again, its me number 138 from Friday. For those of you who do not remember me my name is Amanda Broderick and I support the tip credit. Today I drove another 4 hours and I took another day off to be here. I am here to support the future of my establishment and the future of my industry family. Let's pick up where we left off last week. I love my job. Last week we heard a lot of testimony speaking about abuse and wage theft. We can all agree the folks on the opposition need your help but eliminating the tip credit is not the answer. I am here to say on behalf o myself and the thousands of others in my industry, restaurant workers should not all be grouped into their strife. Eliminating the tip credit will not end sexual harassment and bad ownership. We are the workers you represent and we support the tip credit, we all love our jobs. Please understand we are not victims and we are happy with the way things are now. The owner of my establishment is more to me than just a boss, he is like extended family. Steven Sullivan has my back and he lives by a life motto of leave people

better than you found them. In the 10 years I have worked for him I have seen the compassion and love he has for the people he employees and the industry he worked so hard to be a part of. He offers so many amenities that so many other 9 to 5 jobs don't. For folks struggling with addiction, he offers rehabilitation. For employees with marital problems, he provides counseling. For those who have car problems or a broken furnace he provides a loan program. One of my good friends and fellow bartenders suffered from a diagnosis of cancer and never had to worry about keeping his set scheduled shifts because he knew his job would be there for when he got well enough to work. I have a 401K that I contribute 9% to and my boss matches 100% of the first 5. I feel it important to mention our staff also volunteers their time on Thanksgiving to help feed the homeless and the elderly. There is a reason I have made this my passion. I consider myself lucky to contribute to our organizations and I am here fighting to keep it alive. In Saratoga Springs we are a tight knit community who rely on each other in so many ways. The small restaurants that make up the heart of downtown are directly jeopardized by the elimination of the tip credit. Many of the surrounding eateries are full of people I have worked with during my careers as a server and bartender and I look forward to seeing their faces when I enjoy my day off. Faces I will not see if the tip credit is eliminated. They could not be here today because they are working. We know this will not eliminate tipping. The consequence of elimination is simple, look at the State of Maine, we know jobs will be cut, we know prices will rise, customers will stop eating out and businesses will close, tablets will take over our jobs and all the things you love about dining out will disappear. Please, if you want to help us listen to the workers, save the tip credit, you will be saving all of us in the restaurant business and those who enjoy dining out. I look forward to seeing you again next week. Thank you.

Commissioner Reardon: Kim Gioia. Kim Gioia. Nope. Gordon Clarkson, Gordon. Tiffany Hodum.

Tiffany Hodum: Good morning Commissioner Reardon and esteemed members of the Labor Department. I do have to say as many others here, I'm extremely nervous but this is extremely important to me so I wanted to make it a point to get here. I oppose eliminating the tip credit. The elimination of the tip credit is going to devastate my family and the restaurant industry in New York. The tip credit is my legal protection to ensure that I receive a fair wage. Please do not eliminate the tip credit in New York. I did not ask for this nor did the 8,200 people that have signed my petition against elimination of the tip credit. When I first heard that Governor Cuomo was proposing eliminating the tip credit, I became fearful that my family and my lifestyle would be devastated. My husband and I both work in the restaurant industry in downtown Saratoga Springs. We've worked so hard to build our, we worked so hard to build a life that we currently maintain. As of now, we currently have two homes in which we're responsible for mortgage payments and pay taxes on, as well as two car payments, health insurance, schooling for my son as well as activities and all of the other life expenses that all of us have. I currently average about \$27 an hour as well as my husband. If the tip credit is eliminated, restaurants will be forced to change their business models. These models will then have to go to things such as service fees and/or iPads. With that, that will force restaurants to eliminate many jobs. It will impact the income for all of the front of the house and back of the house staff. I've worked in this restaurant, in the restaurant industry for 16 years and I do love my job. I feel that my job is more than just taking and ordering and delivering food to a guest. I strive to always create memorable dining experience and have the luxury of being able to help assisting and celebrating

special occasions for many, as well as building and growing relationships with regular guests. Without the tip credit, servers incomes will greatly decline and so will the quality of servers. I've seen and reports that are out there that are saying women are subjected to experience a higher level of sexual harassment because we rely on tips. I say that this is ridiculous. Being in the industry for 16 years, this is not something that we experience all the time. Once in a while this will happen yes, however, a man who is going to harass a server is a man who is going to harass a woman wherever he may be. I've always felt that I could rely on my managers to appropriately handle any negative situations that come our way. As many have said here, working in a restaurant, your staff is your family. That family supports and we protect one another. Please, again, do not disturb the restaurant industry in New York and the financial wellbeing of my family. I appreciate your time. Thank you.

Commissioner Reardon: Thank you. Mara Parker.

Mara Parker: First of all thank you for pronouncing my name correctly. Good morning, I'm 53 years old and I'm originally from a small town in the Finger Lakes region. I was a single mother of three that worked four jobs just to make ends meet then I started serving and bartending and I was able to quit two of those jobs to spend more time with my children. After my children graduated high school I moved to the Rochester area and served and managed a restaurant for four years before moving here to the Thousand Islands area to open a restaurant. When Ray and I decided to buy the restaurant on the St. Lawrence it was like a dream come true. After all, isn't it the American dream to work hard, own your own business, do what you love and care about, employ people and hope you make a difference in someone else's life? I know this was going to be hard. Nothing worthwhile comes easily. So I was ready to jump in knowing one day I would be able to reap the benefits of working hard. Ray and I have dedicated our lives to the business, working at least 12 to 14 hours a day the first year to make our dreams come true. We had over 28 employees then the wage increase went up \$2.50 a person now making it \$7.50 a person. This was a huge impact on my business. At the time we employed 14 servers, 6 busers, 5 bartenders and 8 cooks. This was devastating. Not only did the wage increase, so did everything else, all our costs of food, liquor, anything that goes with the restaurant business and plus, if you own the restaurant business you know you're constantly repairing and buying new equipment. In order for us to make the first increase in wage we had to cut back on our employees and now, thank you I work 12 to 18 hour days even on the days we're closed. 7 servers, 3 busers, 4 cooks and 2 bartenders lost their job because of your last decision and that is just in my restaurant. And my payroll wages doubled from the previous year. The entire region of the Northern New York along the St. Lawrence is basically dedicated and relies on tourism and the weather. For instance, this April has not been very nice with the weather and we have gone down 50% in our sales. Last year's high waters were devastating to many of the businesses up here along the St. Lawrence. The St. Lawrence river communities of Cape Vincent, Clayton and Alexandria Bay is made up of mom and pop restaurants, there are no chain restaurants. We cannot absorb this increase in wage, the elimination of the tip credit. There will be many restaurants closing which is imperative for our region to succeed. I've worked with or by servers for over 30 years in small towns and in cities and in all my years, I've never heard of anyone complain about the amount of money they make or anybody being sexually harassed. One of the first items I will be crossing off my list is hiring students under the age of 18 because they do not need to earn a living wage

when they can't do all the jobs that are required of them. To be honest, if this wage increases, I will probably close.

Commissioner Reardon: Thank you very much. Carlos Morales. Carlos Morales. Caitlin Bailey.

Female: After Caitlin our next 5 are Kay Clifton, Meghan Sboro, Kevin Dugan, Karli Bayer and Pam Winberry. If you're any of those 5 please come to the front and give me written copies of your testimony.

Caitlin Bailey: Good morning. My name is Caitlin Bailey and I have worked in the restaurant industry for 10 years and in 4 different states. This industry has allowed me to travel without ever having to worry if I will have a job. I started as a fountain worker and have moved up to now a salaried manager. 18 months ago I decided to move home to be closer to my family and I was easily able to walk into Outback and have a job immediately. I was welcomed into a new location and easily moved up the ranks. In this industry we treat each other as family and I have gained so many family members in the time I have been working. This became more important than ever over the last year. My father went in to have routine surgery in May and he never returned home. My restaurant was so amazing to me during my time of need, he lived for 37 days after his surgery. This was the hardest time of my life because my father was my best friend. The staff at the restaurant I worked at allowed me to work when I needed the escape, allowed me to leave when I needed to be with my family. They prayed with me and they brought my entire family food when we were in the hospital the day my father died. While I was out of work, they took up a collection because they knew I'd be struggling to pay my bills. When it was time to come back and to work, they accepted me with open arms and I was able to go back to my normal schedule with extra allowances to be with my family when needed. The tip credit is so important to our industry it allows restaurants to save payroll on the tip staff while paying a competitive wage to the back of house employees and keep the costs to our guests affordable. If prices rise in our restaurant we are going to lose guests and there are only so much more people can pay to go out to eat. If we lose guests, everyone loses out. There will be less shifts and overall less tips. The system is working the way it is, please leave it alone. We are not asking to be saved.

Commissioner Reardon: Thank you. Kay Clifton. Kay Clifton. Meghan Sboro.

Meghan Sboro: Hi my name is Meghan Sboro, thank you for allowing me to be here today. I've worked in this industry for 15 years. I received a college education related to my industry and I'm here today to tell my story. Our family has been in the restaurant business for 85 years. we employ over 40 people in this area, over 25% of those people are tipped employees. How will be able to give raises to our non-tipped employees if we have to continuously increase the pay for more than 25% of our tipped employees? We have been able to survive the minimum wage increases and the tip credit reductions thus far but not without affect to our daily duties as owners and operators. This industry allows me to meet new people on a daily basis. I have the flexibility and a schedule that others not in this industry are not privy to. I enjoy being able to serve my community and make a lasting impression on those around us. Our customers are like family. Like I said, we have been in this business for 85 years and want to continue to be. The

industry is what my life was built on. I have seen my parents as owners and operators overcome so many obstacles in their many years of service in this industry. Furthering this proposal to eliminate the tip credit will cause already struggling businesses to possibly close. We have survived many pay increases to the state but do not see a way that a restaurant that makes such a small profit already will be able to absorb additional cost of losing the tip credit and seeing the minimum wage continually rise. We as a small community who strive on tourism want to be able to continue to employ our community. With these increases, these will only eliminate our number of employees we are able to employ. We make a living wage already. I'm sure others in this room and our industry will agree. We love our jobs, we love our employers and I urge you to reconsider this, as I said, we already make a living wage.

Commissioner Reardon: Thank you. Kevin Dugan.

Kevin Dugan: Good morning. I am Kevin Dugan, Government Affairs Director for the New York State Restaurant Association. I would first like to thank Commissioner Reardon and her staff for hosting today's hearing and allowing testimony on this very important topic. While the association thinks it wonderful that we have so many industry professionals with us today testifying and making their voices heard, I must admit I'm surprised that we are here at all. That is because we were under the impression that the New York State legislature settled this issue until at least 2021 during the budget negotiations of 2016. In those negotiations there was language that was signed into law that mandates that the food service worker wage equal 2/3 of the minimum wage for all regions across the state. Both houses signed up on this bill and Governor Cuomo himself made it into law. I find it remarkable that before the minimum wage has even been fully phased in, we are back debating this issue. Previous members of various wage boards saw the value in maintaining the tip wage in New York. A number of times different wage boards examined this issue and time and time again decided that the credit should remain intact. I don't know what has changed so drastically that the Department is considering taking unilateral action to not only go against the previous wage boards, what the previous wage boards decided, but against both houses of the State Legislature. The citizens of the state elect representatives to act for them when it comes to making these important decisions. The New York State Restaurant Association believes that any change to this credit should be done through statewide legislation and not through unilateral departmental action. The restaurant industry is an industry that is built on low profit margins. The majority of eateries that call our state home are trying to survive on margins around 4%. Any and all impact of costs are going to affect that number in dramatic ways and restaurants will be forced to look to other places to try to make up that difference. With labor costs already set to go up again at the conclusion of this year, these margins will be strained even more. Eliminate tip credit before seeing what the full impact of a fully phased minimum wage, before what the full impact of the fully phased in minimum wage has on the industry is borderline irresponsible. We have no idea of what the ramifications of either action would be and to apply both at the same time could have devastating effects. Others, in previous hearings have pointed out that 7 other states do not have a tip credit and that is evidence why eliminating a tip credit is a viable option in New York. However, none of those states actually are New York. None of them have the same economic pressure that our state has. None of them have a minimum wage structured like ours and none of them are eliminating the tip credit while concurrently increasing the minimum wage. These states have either never had the tip credit or eliminated their credit decades ago. Some of the states that folks are pointing out

have minimum wage that hovers around \$8.00 an hour. Comparing other states to our is not an apples to apples comparison and you need to be weary of trying to replicate another when the economic conditions of the two locations are vastly different. Again, I would like to thank the Department of Labor for hosting this important hearing today. It is important that issues like this are part of our public discourse. However, again, I would like to emphasize that any change to this law should be made by those who passed it through the legislature.

Commissioner Reardon: Thank you. Karli Bayer. Karli Bayer. Pam Winberry. Thank you. That takes us down to Eric Ingerson. Eric Ingerson. Eric Ingerson. Morgan Ingerson. Nicole Toney. Cari Greene.

Female: After Cari our next 5 are going to be Nick Moon, Chris McKinney, Elizabeth Golden, Corie Mott, and Audrey Boname. If you're one of those 5 people come to the front and provide me with the written copies of your testimony please.

Cari Greene: Good afternoon. First I would like to thank you all very much for allowing this to happen. I don't know if I can do this.

Commissioner Reardon: Why don't you give her this bottle of water and stop the clock for a second. We're watching the clock thank you.

Cari Greene: I apologize. Okay I took public speaking in college, I should be able to do this. Alright my name is Cari Greene and I have been in the restaurant business for three quarters of my life. As a single mother of a 5-year-old, many, many years ago I went after the American dream and I was able to purchase my own restaurant. I work approximately 80 to 100 hours a week. I can work every avenue at my business. I don't ask any of my employees to do anything that I would not personally do myself. My restaurant the Blue Heron Chaumont is open year round and employees 11 to 18 employees who I consider to be part of my family. These employees depend on me to provide a workplace for them to be able to provide for their own families. I employ single parents, high school students and many other individuals that need to work in a work environment that is flexible to their needs at home. I live in a seasonal area but choose to remain open year round to provide my employees with year round work and a place for my local clientele to go. Eating and drinking out is not a necessity, it is a luxury. If this law is passed I will be forced to make serious changes in how I conduct my business. I will be forced to close down for long stretches at a time. I will have to lay off key employees and how would I choose? I would be forced to raise prices to a level that my local blue collar workers will not be able to afford to pay. October through the middle of May my customer base is strictly locals. My locals will not be able to pay the prices I will be forced to charge if this law is passed. Please, I beg of you, listen to us the people in this industry are not looking for change. I sincerely appreciate your time. Thank you so much.

Commissioner Reardon: Thank you. Nicholas Moon.

Nicholas Moon: Hello again, my name is Nicholas Moon. This is my second appearance in front of you the Board here and its not going to be my last, I'm going to see you four more times after this. I'll make it to each and everyone of these hearings and I'll speak at everyone of them

not only for myself but for my colleagues. My role in the restaurant I work in goes beyond providing the best service one can provide through a wealth of knowledge obtained by hours of training in wine, liquor, beer and food pairings as well as cooking methods to provide flavor profiles to provide the most palatable dish to my guests. I'm a captain. I represent my servers, my busers, my bartenders, hosts, even the cooks and dishwashers whether it be to my manager or owner or to you. No matter the issue, my job is to take their problem and find them solutions to help them through the weeds even if it means putting myself behind. So today, I'm here as a Captain of my peers, battling for those people who aren't here to speak for themselves because they can't afford to take the time off work like we as servers can. Working this job has left me very well off. I've taken the steps necessary to make the most money I can by providing amazing service. Come see me at Long Fellows sometimes, I guarantee you'll come back. I take multiple vacations per year, I eat like a king, my cat has more stuff than I do. I challenge you to find a server who doesn't make minimum wage. If they do, you should know that the owners are made to pay the difference. So why then do you think it is that we need more money? We as servers make more money than anyone else in the restaurant topped only by the owner in some cases. So why is it that you want to make the owners pay us so much more, taking food and money out of the pockets of those that will inevitably lose their jobs, and due to the insane spike in labor costs that can't be covered solely by a jump in the menu prices. The chefs that deserve their bonuses won't see it. They can forget about a raise all because the people that made the most supposedly need more money. I would hate to look one of those people in the face that lost their job knowing fully well they lost it so I can take their money. This is no solution as it has been put, if anything this is another problem. Unemployment rates will skyrocket and I will not sit by and let my friends and family be victimized because we're falsely being made out to be the victim. We are not victims. We as servers do not need your help. Our cooks, dishwashers, busers, expos, hostesses they need your help. help them keep their jobs. If you really want to help, leave the wages along and help us save our industry. I will see you next week with the same message, and the next week and two more after that until I can rest satisfied that I have fought as hard as I can for myself, for all of you and for the rest of our peers in the industry. Thank you.

Commissioner Reardon: Thank you. Chris McKinney. Elizabeth Golden.

Elizabeth Golden: I'm not very good at public speaking but I'm going to give it a whirl. I am here today to represent my business, my employees and our industry. I'm 54 years old; I've been in this business since I was 16 years old. I opened my own business in 2003. I presently employ 25+ employees during the off-season and over 40 during the summer months. It will be a very sad day if O'Brien's in Clayton has to shut down. We are kind of the hub in our community. We help with many benefits, fundraisers, any kind of donations that take place in our little town and it's a very quiet winter for us. As some people said, this year the weather, which we are so weather dictated, has really hurt us bad. Upstate New York is comprised of many seasonal tourist businesses. Our main season is Memorial Day through Labor Day, three months. I manage to stay open during the winter which is very difficult. I'm actually going into the hole about \$40,000 before I start out the summer this year, which I do not know how I am going to do that. The weather and economic conditions are the main impact of our business. The decisions made out of our control are continually have a great impact for small businesses. This includes insurances, utilities, taxes, workman's comp, payroll taxes. Is Governor Cuomo's

idea behind this to increase payroll taxes? We don't really understand what the whole reason is for. We make good money. Payroll tax, workman's comp insurance will increase immediately which we are expected to absorb. It's a domino effect. This in turn is going to increase our food and beverage cost, and affect the consumers, they cannot absorb this anymore. They will not eat out, the ones that come out three or four times a week now may come out one time. The state does not need any more people drawing unemployment. Raise the minimum wage could result in our employees making less money. Our servers and typical servers make between \$17 and \$21 an hour. I have told, as I said, I've had customers tell me, if it keeps going up and they have to absorb anymore costs, they will probably not be able to visit us quite as much. The back of our business, our prep lines, our cooks or head chefs will feel the impact of this also. Every year they expect to get a raise, how can we keep doing this? We as employers will have to decide what job is worth versus our customer price of our product. Do we eliminate hostesses and bus people, and again, more jobs will be eliminated. What are we doing? Do we want a career path as a dishwasher to make \$12.50 and probably eventually, I know Governor Cuomo would like to shoot to \$15. I have had conversations with Senator Patti Richie and Eddie Jenny and I believe that is his goal in the end. We will definitely not be able to stay open when that happens. There will be no summer jobs for high school or college kids. New York State Department of Labor has put certain things that we have to follow for the 14 to 16 year olds so we can't make them do certain jobs but we have to pay them these high wages. Thank you.

Commissioner Reardon: Thank you. Corey Mott, Corey. Okay. Audrey Boname, Audrey. Nope. Elizabeth Nicholson. Michael Shank.

Female: After Michael our next 5 are Sandra Wilkins, Shana Brown, Danielle Kito, Tammy Byers, and Gail Smith. Please come to the front if you're one of those 5 people.

Michael Shank: Good morning. Senator Richie ask that I attended on her behalf with the following letter. Dear Commissioner Reardon, thank you for the invitation to attend the New York State Department of Labor's hearing today on the Governor's Tip Credit Proposal. Unfortunately, due to legislative session in Albany, I am unable to attend this important hearing but will take this opportunity to submit testimony. Fair pay for hard work is an idea that we can all get behind. However the Governor's proposal to eliminate the tipped wage for restaurant servers in New York is neither fair nor does it reward hard work. In fact, it will likely hurt the very people that it is intended to help by raising costs for small business owners, and reduce the number of available jobs we so desperately need to move our economy forward. Our current laws set the tipped wage at a rate slightly below minimum wage. That rate, \$7.50 an hour is set to increase along with minimum wage over the next few years. When that happens, these wages will be the highest in the country, more than twice that of our surrounding states. The law already protects against any worker tipped or not, from earning less than the statutory minimum wage. Its my hope that the Governor and Commissioner will truly listen to those most directly impacted such as the dozens of servers who I've spoke with and clearly voiced their opposition to this plan including a college student who, with her customer's tips, knows she can earn enough money over the few short months of our peak tourism season to help bridge the gap between her tuition and the amount that her hardworking parents are able to pay for her education. A single mother of two, with a full-time job who struggles to find the time to also work a few hours a week waiting tables but must because she struggles more to make ends meet

and, countless career servers who enjoy and need the flexibility of scheduling, upward earning potential, and the diversity of positions that our hospitality industry offers. In addition, these individual servers will not be the only ones who will lose out if this proposal is approved. Eliminating the tip wage will also raise the cost for employers and most certainly lead to higher prices for consumers. Our region as a whole will also suffer. In the North Country the hospitality industry is the second largest employer after the public sector. More importantly, the Department of Labor projects that in the next few years, the number of hospitality jobs in our region is poised to grow faster than any other industry we have. More so, tourism on our Lake Ontario and Thousand Islands Communities has recently taken a substantial hit from last summer's devastating floods and higher wages could further derail the recovery and our potential for growth. Compensation through earned tips contributes to a stronger work ethic and improved performance. It raises standards for the industry and helps ensure better quality service. Eliminating this incentive would leave a bad taste in the mouth of consumers, employers and servers themselves and I feel the state should no longer be considering this plan to eliminate the tipped wage. Sincerely State Senator Patti Richie.

Commissioner Reardon: Thank you very much. Sandra Wilkins. Sandra Wilkins. Danielle Kito, Tammy Byers.

Tammy Byers: Good afternoon, thank you for this opportunity. My name is Tammy Byers, born in Rochester, New York but I've been in the Thousand Islands, Clayton region for over 30 years by choice. Why did I say that, I said that because I've been waitressing since I was 16 years old? I waitressed throughout the City of Rochester and throughout the Thousand Islands region. Went to college for Business Management, my day job is I'm a Senior Sales Manager at Bonnie Castle Resort, once again wanting to reiterate that our area, our community, the Thousand Islands Region is strictly seasonal based. It's based on tourism and travel which we're all well aware. Those that choose to stay open year round take a huge hit; most of them go in the red so they can stay open during the peak season. I'm not here to tell a sob story but if it sounds like it, its just the truth and it's a story from my heart. So I started waitressing at 16 years old because my mom left when we were all little and my dad raised us. And I had to waitress to buy school clothes and everything else that went along with that, my lunches, dad worked two jobs. So this industry has pulled through for me since I was 16. Fast forwarding to 2008 when I had my real estate license. I had my real estate license for 15 years. During the crash of 2008, I was married at the time; my husband did numerous tours in Iraq and Afghanistan and was getting out of the military because it was imploding our marriage and our family for lack of a better word. So while he was getting out, he was getting out at the end of his tour, he wasn't getting out medically. He wasn't getting out for any other reason he was honorably discharged. During that process an old injury flared up in his back to the point where he could not walk. But he was no longer active duty; he was now out of the military so now we were dealing with the VA which if anyone in this room knows the VA takes months, and months and months or years to process. We had just purchased a new home. We had been in for about 6 months when the real estate economy crashed in 2008 and we were solely living on tips because I had to go back to waitress because real estate took a tank. So now fast forwarding, I'm a single mom with two kids, own my own home and have for over 10 years, I work 3 jobs. My day job is Bonnie Castle sales and I have two high season summer jobs of waitressing and if he eliminates this tip credit I'm afraid I'm probably going to have to put my house up for sale. Thank you.

Commissioner Reardon: Thank you. Gail Smith followed by David Nicola.

Gail Smith: Thank you all so much for this opportunity for us all to speak. It's hard for all of us to not cry. I'm going to try not to. My name is Gail Smith; I'm Operations Manager at the West View Lodge in beautiful Henderson Harbor, New York. We are seasonal. We have the nice sunsets there hence the West View. Anyway, last year was a horrible year. We had high water. The docks did not go out. The boats didn't go into water until the 30th of July, the campers weren't there. We were down for us at least 1/3 of our business. Okay so now its 2018, the seasons coming back right we're all watching the high water. Some how we paid the liquor license, got that done, we're all paid, that was a whew! And we're starting to get you know the college kids are like, "Hey can I have my job back" and this and that. We had to go down to 1 full-time bartender when it went to \$7.50. Now I won't lie to you, she's pretty fast but she breaks glasses and she throws those little cocktail forks away so we have to, I just put that into waste at the end of the year. What are you gonna do? So we find ways to do this okay. So anyway I am from Henderson Harbor. My dad ran Stony Island it is owned by Phillips Petroleum and my grandmother was a head housekeeper. So what better place to put a teenager right on an island. So there I was at 13 and my grandmother said something that I took to my heart and my sole, she said, you are a public servant, you must always have customer service and love your customer, it will come back to you. And you know what throughout the years I've been in corporate same but I've had to stay in industry because here I am a single mom like a lot of us. But we're smart, smart enough to go work the weekends and make the tips. And there was one time I remember I had the flu all week and I called my weekend boss and I said, "Look Dave, I've gotta open, I've gotta close Friday, Saturday, Sunday, I've got rent on Monday and my hulk son who needs a new pair of sneakers, size 13, he's gotta have them so I think I can do it if you'll let me work." Okay folks I worked 30 hours, 30 x \$10 is \$300.00. I made \$1000. I paid rent and the kid got the new shoes. Let's go back to the West View Lodge, this weekend we had a fire. We are closed. I haven't slept. We do have insurance we paid that I don't even know how so I've got to somehow get that restaurant open. The Derby that is in 3 weeks that was cancelled last year from high water, we're the only motel open in Henderson Harbor. I probably won't sleep for another week and that's probably why I'm not going to cry here. I'm just going to ask you isn't it your job to create jobs? Those college kids need jobs and the businesses need to stay open.

Commissioner Reardon: Thank you. David Nicola. David Nicola. Jessica Diaz. Chris Cortez will follow Jessica Diaz.

Jessica Diaz: Hello again. My name is Jessica Diaz. I participated in the last hearing. I was the very last person that you got to hear after a very long trying day. This is definitely a different vibe up here. I think this is part of why I choose to go, I'm going to go to every single one as well so we're all going to ride this right till the wheels fall off here. So whether its four hours or half an hour, again, we are one people speaking for as many that we can behind us. All our coworkers that have to work today and everything else. But what I notice about this particular hearing is our location has got a lot to do with the people that have come. When we were in Long Island we were talking about a bigger area of New York. This is a more reserved area. Like they were saying a lot of especially here you're really seasonal. I guess just what I'd like to

bring to the table is we've already kind of established that we know restaurants will close. We know we're going to be losing busers and hostesses and all that stuff. Some of this information is saturated in our heads, like we didn't know but now we really know. We've heard from customers, we've heard from workers, we've heard from owners. I guess I just really feel I feel like there's a tear here between the restaurant industry and the other tipped businesses and the restaurant industry is really so much more unique and it's just different all the way around the board. It's like I don't kind of understand in a way how we're all lumped into one and I understand in the Bronx or whatever there's going to be two, the restaurant industry and the others. But it's like we're both fighting for our livelihoods but yet we're being torn apart because of the result of it. And I mean we all know you've got Washington DC and Maryland yet they're secluded because it's like it's like 2 miles of Washington DC with a different zip code and everything else than the City. And that's like what New York City is kind of like. New York City is very, very different than anywhere else in New York. I mean California you've got big properties and you've got open areas and big congested cities. New York State is very different all the way around the board. I mean you've got everybody thinks New York is the City but as you clearly see it is not. We've got major farm areas and woodlands and everything else here and people forget about these people that are hanging on by a thread up here because they're waiting for tourism and everything else. It's not just the big hustle and bustle of the City. New York State is a blend of all these people; the people that hunt and gather and then there's a big variety you know what I mean. So just take that into consideration, New York is a big area.

Commissioner Reardon: Thank you. Chris Cortez. Chris Cortez and our last speaker will be Hillary Lynn.

Chris Cortez: Hi, thank you for hearing us today. My name is Chris Cortez, I'm from Binghamton, New York, I own Cortez Restaurant. I've been there since I was 8 years old, I'm 55 now. Anyway I've got 70 people working for me, the restaurant is about 70 years old, I think Meghan Sboro's place beats me by 15 years. Anyway another thing our restaurant, if you do everything just right on a good day, on a good year I should say, your bottom line might be 4 to 5%. This last wage increase which I have 70 people working for me, probably half of them are tipped, this last wage increase which brought up from \$5.00 an hour to \$7.50 an hour cost me about \$60,000 a year. I held off raising my prices as long as I could and began to fall behind in some of my bills. I was forced to raise prices and with some grumbling from customers. I have customers that range everywhere from lawyers and doctors to the regular person all the way down to the elderly and the people that live in our neighborhood which is not exactly an affluent neighborhood around my restaurant. If we have another wage increase, that's going to cut into my 4 or 5% I'm going to have to raise prices and will have to, I really can't, it going to be difficult to cuff staff if I'm going to maintain service so prices or service charge will have to go on, and what that will do is it will devalue our money is what's going to happen here. And yes, they're getting paid this minimum wage, they're making less because I can have a server in one of my 5 table stations work 4 hours and knock down \$150, \$200. That's not minimum wage. What will end up happening, prices will go up and dining out will become something for the elite and all of our elderly customers and our not so well to do customers, they're out. They won't be able to afford it. So what am I left with? Then I will be able to cut staff once the volume cuts down. There's one thing that Andrew Cuomo could really do to help us, get out of our way.

Commissioner Reardon: Thank you. Hillary Lynn. Hillary.

Nikki: I'm actually not Hillary, I'm Nikki I'm with Hillary.

Commissioner Reardon: I'm sorry we are not allowing people to speak for other people, if Hillary...

Nikki Miller: I'm speaking for myself. Can I do that?

Commissioner Reardon: Yeah you're the last person go ahead. But remember, we're not going to have people speaking for other people from now on.

Nikki Miller: Yes, I'm actually speaking for myself. My name is Nikki Miller, I'm the General Manager of the Wheat Field Inn Downtown Saratoga Springs, NY. I started in this business when I was 16 years old. I started as a busser like a lot of people here. I worked my way through being server, a bartender, a cook, a manager and now I'm the General Manager of a very thriving business downtown which I've very proud of. The flexibility of working in a tipped position allowed me throughout my life to go through 10 years of college without accumulating any debt. I earned my wages. I earned them through working hard and turning my guests into regulars and turning my regulars into family members. This career allowed me to get an education and also lead an active lifestyle that I love to live. I choose the career I'm in now because I do love it. I manage a staff of over 45 to 50 people in the height of the season. They're my family now and I would do anything in the world to protect them including speaking here today since I hate speaking in public like this. They can't be here as it is a 4-hour trip. A lot of them are parents. Some of them are teachers and a lot of them are, excuse me, some of them are caregivers of their elderly parents that cannot be left alone. They're homeowners and they are taxpayers. I work with them and help them to plan a schedule whether it be day, night, whether it be full-time or part-time to help them achieve their goals in life, whether it's in this industry or a different one. I'm grateful to manage a business that allows such flexibility. I know what will happen to many of them if this passes. I can't bear to think that I would lose half my family. I know that. I'm also an active volunteer in the community in the Business and Tourism. The consequences of what this would do to our hospitality town is devastating, please don't do this.

Commissioner Reardon: Thank you very much. Thank you all for coming and that is the end of the hearing here in Watertown.