NEW YORK VOTERS SUPPORT PROVIDING EQUAL PAY PROTECTIONS FOR ALL WORKERS

By Kyle C. Barry, Senior Legal Counsel, The Justice Collaborative Institute

Saru Jayaraman Director of the Food Labor Research Center at the University of California, Berkeley

EXECUTIVE SUMMARY

Both state and federal governments have already provided billions of dollars of relief to companies and workers impacted by the coronavirus pandemic. But these relief efforts have largely left behind the lowest paid workers, including those who work for tips.

In New York, orders to stay home and avoid restaurants, bars, and other service-based businesses have meant that people who rely on tips—a massive population throughout New York—suddenly have almost no income. As many white-collar workers transitioned to safely work from home, service industry jobs have simply disappeared. And as their tips and jobs have disappeared, many have been denied unemployment benefits because they received a subminimum wage plus tips too small to qualify for benefits.

New York requires a $15 minimum wage and at least $10 for tipped workers. That's better than most states and the federal government. Nevertheless, even here in New York, some tipped workers are still left behind. While the state will eliminate the subminimum wage for some tipped workers by the end of 2020, restaurant workers—a huge proportion of tipped workers in the state—are specifically excluded from that policy. That must change.

New polling reveals bipartisan support for policies that will build a fairer economy for all workers and level the playing field for service workers who depend heavily on tips and the wider workforce. These results show that New Yorkers support changing the status quo and do not want the economy to simply return to how it was pre-pandemic. Instead, officials and political actors should seize on these results to guarantee that we move toward a society in which all workers earn a liveable wage—one fair wage for all workers.

Our polling of New York voters shows that:

- Eighty-seven percent, including 83% of Republicans, support changing federal minimum wage laws to require that the minimum wage be applied to all workers, regardless of whether they are in an industry where tips are customary.

- Eighty-four percent, including 84% of Republicans, support including tipped workers at the federal minimum wage in any government program to cover lost wages from the coronavirus pandemic.

- Seventy-three percent, including 53% of Republicans, support the government paying 100% of lost wages for workers who lost their jobs, or face reduced work hours, due to the coronavirus pandemic.

- Seventy-four percent, including 65% of Republicans, support raising the federal minimum wage to $15 per hour and automatically adjusting the amount each year to account for national cost of living increases.

- Eighty-percent, including 67% of Republican voters, support requiring any company that accepts funding as part of a government bailout to pay workers a living wage of at least $15 an hour.

- Fifty-four percent agree that the economic challenges faced by tipped workers will likely be worse for them after the economy re-opens.

- Sixty-two percent agree that the coronavirus pandemic has shown that we take the work of many low income workers for granted, and the goal after the pandemic should be to have a more fair economy for all workers.

INTRODUCTION

It has been taken as a given in the American economy that service workers who rely on tips will not be included in standard minimum wage laws or other [benefits](), such as unemployment, health insurance, and sick leave protections. Their ability to earn a livable wage has long been dependent not on how hard they worked but on others' gratuities.

And because of the reality of the service economy, these workers who lack sufficient protections have been hit hardest by the public health and economic impact of the coronavirus pandemic. Over half of New York State private sector net loss of jobs in March were from the [hospitality industry](). And by the end of April, the New York State

Restaurant Association estimated that at least 527,000 of the [660,000 New York state restaurant employees](#) were out of work, with the National Restaurant Association reporting roughly [81% workforce unemployment](#).

Now in unemployment, tipped workers remain at a severe disadvantage as compared to other workers. Because unemployment insurance is based on a percentage of one's income, in most states that means tipped workers' [unemployment benefits](#) are based only on their subminimum wage that often fails to accurately calculate the person's tips. And that is if [they are eligible to receive unemployment at all](#). These restrictions make it impossible for most service workers, already living paycheck-to-paycheck, to cover basic expenses.

And for service workers who continue to work during this public health crisis—those we now consider essential without paying them as such—they are doing so in highly [dangerous conditions](#), often with reduced pay. If from continuing to work they do get sick, these workers have little access to sufficient, affordable [health care](#). The dilemma is clear for service and tipped workers—stay home and have no income or benefits, or report to work for reduced pay while putting yourself and your family at increased risk of getting sick.

According to our new polling, the overwhelming majority of New York voters recognize the problem and support policy solutions to solve it. They support guaranteeing one fair wage for everyone, including restaurant and other tipped workers. They also reject the false dichotomy between fully re-opening businesses before it is safe to do so and doing nothing for workers; voters support the government covering all lost wages for workers who were laid off or had their hours reduced as a result of the pandemic. Finally, we found that voters support accountability for companies that receive federal relief funding, requiring them to pay workers a livable wage.

POLICIES & POLLING

[New York](#) has a $15 minimum wage, but restaurant workers are guaranteed only a $10 hourly wage, and must depend on tips and the honesty and transparency of restaurant managers to make up the difference when tips fall short. This makes New York one of forty three states along with the federal government that have a separate, lower minimum wage for at least some tipped workers. In most states, tipped workers are guaranteed less than $5 an hour and the federal government requires just over $2 an hour. Only [seven states](#) have adopted one fair wage for all workers, mandating that

service workers receive the same minimum wage as everyone else on top of whatever tips they receive.

An economy system that permits a two-tiered minimum wage system effectively excludes huge numbers of working New Yorkers and their families from sufficient wage protections with severe consequences. It leads to higher rates of poverty and sexual harassment, codifies gender pay discrimination, and endangers the health of both workers and the general public. These are all issues that one fair wage for all would address.

[CHART ON CHANGING FEDERAL MIN WAGE LAWS to require that the minimum wage be applied to all workers, regardless of whether they are in an industry where tips are customary, page one of polling first question]

[Insert chart for support for including tipped workers at the federal minimum wage in any government program to cover lost wages from the coronavirus pandemic—see page four of polling]

Finally, applying one fair wage to all workers, including tipped workers, can protect the public health by reducing the risk that workers will go to work sick. At least 75% of food service workers do not have paid sick time, and even those that do only collect tips if they go to work. Like in New York, in states with a tipped minimum wage even a "paid" sick day will yield only a few dollars an hour. As a result, service workers have every incentive to work sick, putting the public health at risk.

[chart on support the government paying 100% of lost wages for workers who lost their jobs, or face reduced work hours, due to the coronavirus, see page four of polling questions]

[chart on support for raising the federal minimum wage to $15 per hour and automatically adjusting the amount each year to account for national cost of living increases-see page five of polling questions]

One Fair Wage policies—guaranteeing a full minimum wage with tips on top—have been gaining momentum. California, Nevada, Washington, Oregon, Montana, Minnesota,

and Alaska have all protected tipped workers with one fair wage. Last year, federal One Fair Wage legislation passed the U.S. House of Representatives and legislators in 16 states introduced One Fair Wage bills. Though New York eliminated the subminimum wage for some tipped workers last year, it continues to exclude hundreds of thousands of restaurant workers, which means there is significant work to be done. Critics of one-fair wage will often argue that paying tipped workers the same livable wage as other workers will result in lost profits and closings, or will lead to customers tipping less. But evidence has proven this to be false. After New York increased its minimum wage and took baby steps to increase the promised wage for tipped workers, restaurants in the aftermath were found to be "thriving."

Now our polling shows overwhelming bipartisan support for New York to finish the job and create a more fair economy that protects all workers equally.

[chart on support for requiring any company that accepts funding as part of a government bailout to pay workers a living wage of at least $15 an hour, see page five of polling questions]

[chart on voters agree that the economic challenges faced by tipped workers will likely be worse for them after the economy re-opens., see page 2 of polling questions]

METHODOLOGY