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SB 160: Labor and Employment - Payment of Minimum Wage - Tipped Employees

Senate Finance Committee | February 1, 2024

Position: SUPPORT

The National Women's Law Center (NWLC) submits this testimony in strong support of SB 160, the "One Fair Wage" bill. SB 160 will finally require employers in Maryland to pay tipped workers the full minimum wage, before tips, by 2027. This wage increase will provide critical relief for tipped workers in Maryland, who are disproportionately women and people of color. This bill is essential to address the pervasive and longstanding pay disparities that women, and especially women of color, face in Maryland—disparities that were only exacerbated by the COVID-19 pandemic.¹

Since 1972, NWLC has fought for gender justice—in the courts, in public policy, and in our society—working across the issues that are central to the lives of women and girls. NWLC advocates for improvement and enforcement of our nation's employment and civil rights laws, with a particular focus on the needs of LGBTQI+ people, women of color, and women with low incomes and their families. Ensuring that *all* workers in Maryland are entitled to the same fair minimum wage, regardless of tips, is a critical way to boost women's paychecks, combating poverty and persistent racial and gender pay gaps.

Women working full time, year-round in Maryland typically make only 86 percent of what their male counterparts make, leaving a wage gap of 14 cents on the dollar.² This wage gap varies by race and is far larger for Black women, Latinas, and many other women of color.³ One driver of these wage gaps is women's overrepresentation in low-paid jobs.⁴ In Maryland, nearly two in three workers in the state's lowest-paying jobs are women,⁵ as are roughly two-thirds (68%) of tipped workers; more than one-third (35%) of tipped workers in Maryland are women of color.⁶ Especially in states like Maryland where employers can pay just a few dollars an hour before tips, tipped workers experience poverty at far higher rates than the workforce overall⁷—and they also experienced job loss, reduced tips, and great risks to their health and safety during the height of the pandemic.⁸

Women who rely on tips rather than wages for the bulk of their income also often feel compelled to tolerate inappropriate behavior from customers, and women's lack of economic power in these workplaces perpetuates the already pervasive culture of sexual harassment in industries that employ large numbers of tipped workers.⁹ Today, while Maryland law continues to allow employers to pay tipped workers a base wage of just \$3.63 an hour, many question whether they should stay in a profession that leaves them vulnerable to harassment and scrambling to pay their bills¹⁰—and many who have already left question whether they should return.¹¹

Meanwhile, since D.C. voters overwhelmingly approved Initiative 82 on the November 2022 ballot, the District of Columbia has been raising its tipped minimum cash wage; D.C.'s tipped wage is now \$8.00 per hour, and it will continue to rise on July 1 each year until it matches the regular minimum wage in 2027.¹² If Maryland does not offer competitive wages for tipped workers, employers in neighboring counties will continue to see an exodus of workers from Maryland's restaurant industry to more attractive pay in D.C.¹³ But ensuring that tipped workers can count on a full minimum wage, with tips on top, can help attract and retain workers in Maryland's restaurants and other tipped jobs.

Raising wages for Maryland's tipped workers will also benefit children, families, and the state's economy. Especially in light of recent inflation, families across the state are still struggling to afford the basics. SB

160 would give many of these families a much-needed income boost—which research shows can also benefit children’s health and well-being.¹⁴ Decades of research studying the impact of state and local minimum wage increases also show that these measures consistently improve incomes for workers and their families without costing jobs.¹⁵

Likewise, in the jurisdictions that have already adopted One Fair Wage, this policy has not harmed growth in the restaurant industry or tipped jobs. From 2011 to 2019, One Fair Wage states had *stronger* restaurant growth than states that had a lower tipped minimum wage.¹⁶ And while the pandemic hit the leisure and hospitality sector hard, the recovery has been swifter in One Fair Wage states: From January 2021 to May 2023, One Fair Wage states saw 53% growth in the leisure and hospitality industry, compared with just 19% growth in states with lower wages for tipped workers.¹⁷ Indeed, because underpaid workers spend much of their extra earnings in their communities, raising wages for tipped workers can boost local economies and spur small business growth.¹⁸ And higher wages can further benefit employers by reducing turnover and increasing productivity.¹⁹

The One Fair Wage bill will help working families thrive and, because women are the majority of workers who will see their pay go up, wage gaps will likely narrow as well.²⁰ Last year, this legislature accelerated the phase-in of Maryland’s \$15 minimum wage but left the wage for tipped workers frozen at \$3.63—once again leaving many women and people of color behind. **You can fix that today.** By supporting the One Fair Wage bill, you will diminish historic inequities in Maryland and ensure that women can work with equality, safety, and dignity—starting with equal and adequate pay.

We respectfully request a favorable report of SB 160.

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Please do not hesitate to contact Diana Ramirez at dramirez@nwlc.org if you have questions or require additional information. Thank you for your consideration.

¹ See generally, e.g., *Resilient But Not Recovered: After Two Years of the COVID-19 Crisis, Women Are Still Struggling*, NWLC (March 2022), <https://nwlc.org/resource/resilient-but-not-recovered>.

² *The Wage Gap by State for Women Overall*, NWLC (March 2023), https://nwlc.org/wp-content/uploads/2022/09/wage_gap_women_overall.pdf.

³ Among full time, year-round workers in Maryland, Black women are paid just 67 cents, and Latinas just 49 cents, for every dollar paid to their white, non-Hispanic male counterparts. *The Wage Gap by State for Black Women*, NWLC (March 2023), https://nwlc.org/wp-content/uploads/2022/09/wage_gap_black_women.pdf, and *The Wage Gap by State for Latinas*, NWLC (March 2023), https://nwlc.org/wp-content/uploads/2022/09/wage_gap_latinas.pdf. See also Sarah Javaid, *A Window Into the Wage Gap: What’s Behind It and How to Close It*, NWLC (Jan. 2024), <https://nwlc.org/wp-content/uploads/2023/01/2023-Wage-Gap-Factsheet.pdf>.

⁴ See generally, e.g., Jasmine Tucker & Julie Vogtman, *Hard Work Is Not Enough: Women in Low-Paid Jobs*, NWLC (July 2023), <https://nwlc.org/resource/when-hard-work-is-not-enough-women-in-low-paid-jobs/>.

⁵ See *id.*

⁶ NWLC calculations based on 2017-2021 American Community Survey (ACS) five-year estimates using Steven Ruggles et al., IPUMS USA: Version 14.0 [dataset] (Minneapolis, MN: IPUMS, 2023), <https://doi.org/10.18128/D010.V14.0>. Women of color includes all women who did not self-identify as white, non-Hispanic women. Figures include all workers employed in a set of predominantly tipped occupations identified by the Economic Policy Institute (EPI). See Dave Cooper, Zane Mokhiber & Ben Zipperer, EPI, *Minimum Wage Simulation Model Technical Methodology* (Feb. 2019), <https://www.epi.org/publication/minimum-wage-simulation-model-technical-methodology/>.

⁷ See generally *One Fair Wage: Women Fare Better in States with Equal Treatment for Tipped Workers*, NWLC (Feb. 2021), <https://nwlc.org/resource/one-fair-wage/>.

⁸ See, e.g., *Unlivable: Increased Sexual Harassment and Wage Theft Continue to Drive Women, Women of Color, and Single Mothers Out of the Service Sector*, ONE FAIR WAGE (April 2022), <https://onefairwage.site/unlivable>.

⁹ See, e.g., Catrin Einhorn & Rachel Abrams, *The Tipping Equation*, N.Y. TIMES (March 12, 2018), <https://www.nytimes.com/interactive/2018/03/11/business/tippingsexual-harassment.html>; Amanda Rossie, Jasmine Tucker & Kayla Patrick, *Out of the Shadows: An Analysis of Sexual Harassment Charges Filed by Working Women*, NWLC 16-17 (Aug. 2018), <https://nwlc-ci49tixgw5lbab.stackpathdns.com/wp-content/uploads/2018/08/SexualHarassmentReport.pdf>; Stefanie K. Johnson & Juan M. Madera, *Sexual Harassment Is Pervasive in the Restaurant Industry. Here’s What Needs to*

Change, HARV. BUS. REV. (Jan. 18, 2018), <https://hbr.org/2018/01/sexual-harassment-is-pervasive-in-the-restaurant-industry-heres-what-needs-to-change>.

¹⁰ See *One Fair Wage: Ending a Legacy of Slavery and Addressing Maryland's Restaurant Staffing Crisis*, ONE FAIR WAGE (Feb. 2023), https://onefairwage.site/wp-content/uploads/2023/01/OFW_EndingLegacySlavery_MD-1.pdf.

¹¹ See, e.g., Abha Bhatara & Maggie Penman, *Restaurants Can't Find Workers Because They've Found Better Jobs*, WASH. POST (Feb. 3, 2023), <https://www.washingtonpost.com/business/2023/02/03/worker-shortage-restaurants-hotels-economy/>.

¹² See Washington, D.C., *Initiative 82, Increase Minimum Wage for Tipped Employees Measure (2022)*, BALLOTEDIA, [https://ballotpedia.org/Washington,_D.C.,_Initiative_82,_Increase_Minimum_Wage_for_Tipped_Employees_Measure_\(2022\)](https://ballotpedia.org/Washington,_D.C.,_Initiative_82,_Increase_Minimum_Wage_for_Tipped_Employees_Measure_(2022)).

¹³ See *One Fair Wage: Ending a Legacy of Slavery and Addressing Maryland's Restaurant Staffing Crisis*, *supra* note 10.

¹⁴ See generally, e.g., *Set Up for Success: Supporting Parents in Low-Wage Jobs and Their Children*, NWLC (June 2016), <https://nwlc.org/resource/set-up-for-success-supporting-parents-in-low-wage-jobs-and-their-children/>; George Wehby et al., *Effects of the Minimum Wage on Child Health*, 8 AM. J. HEALTH ECON. 412 (2022), <https://doi.org/10.1086/719364>.

¹⁵ See, e.g., Arindrajit Dube, *Impacts of Minimum Wages: Review of the International Evidence* (Nov. 2019), <https://www.gov.uk/government/publications/impacts-of-minimum-wages-review-of-the-international-evidence>; Doruk Cengiz et al., *The Effect of Minimum Wages on Low-Wage Jobs*, 134 Q. J. ECON. 1405-54 (Aug. 2019), <https://academic.oup.com/qje/article/134/3/1405/5484905> (examining 138 state minimum wage changes in the U.S. between 1979 and 2016 and finding that both the typical minimum wage increases and also the highest state-level minimum wage increase significantly raised wages without reducing the employment of low-wage workers).

¹⁶ Ben Zipperer, *The Impact of the Raise the Wage Act of 2023*, ECON. POLICY INST. (July 2023), <https://files.epi.org/uploads/270622.pdf>.

¹⁷ Jessica Vela, *Higher State-Level Minimum Wages Aid in Faster Jobs Recovery*, CTR. FOR AM. PROGRESS (July 2023), <https://www.americanprogress.org/article/higher-state-level-minimum-wages-aid-in-faster-jobs-recovery/>.

¹⁸ See, e.g., Zoe Willingham, *Small Businesses Get a Boost from a \$15 Minimum Wage*, CTR. FOR AM. PROGRESS (Feb. 25, 2021), <https://www.americanprogress.org/issues/economy/reports/2021/02/25/496355/small-businesses-get-boost-15-minimum-wage/>; William M. Rodgers III & Amanda Novello, *Making the Economic Case for a \$15 Minimum Wage*, CENT. FOUND. (Jan. 2019), <https://tcf.org/content/commentary/making-economic-case-15-minimum-wage/>.

¹⁹ See, e.g., Holly Sklar, *Business and Minimum Wage Research Summary*, BUS. FOR A FAIR MIN. WAGE (April 2023), <https://www.businessforafairminimumwage.org/sites/default/files/BFMW%20Business%20and%20Minimum%20Wage%20Research%20Summary%20April%202023.pdf>; Kate Bahn & Carmen Sanchez Cumming, *Improving U.S. Labor Standards and the Quality of Jobs to Reduce the Costs of Employee Turnover to U.S. Companies*, WASH. CTR. FOR EQUITABLE GROWTH (Dec. 2020), <https://equitablegrowth.org/improving-u-s-labor-standards-and-the-quality-of-jobs-to-reduce-the-costs-of-employee-turnover-to-u-s-companies/>.

²⁰ A higher minimum wage generally would narrow the wage distribution, effectively narrowing the wage gap. Nicole M. Fortin & Thomas Lemieux, *Institutional Changes and Rising Wage Inequality: Is There a Linkage?*, J. Econ. Perspectives Vol. 11, No. 2, 75-96, at 78 (Spring 1997), <http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.11.2.75>; Francine D. Blau & Lawrence M. Kahn, *Swimming Upstream: Trends in the Gender Wage Differential in the 1980s*, J. LABOR ECON., Vol. 15, No. 1, 1-42, at 28 (Jan. 1997), https://www.jstor.org/stable/2535313?seq=1#page_scan_tab_contents; *Minimum Wages, Ch. 7.3: Effects on Gender Pay-Gaps*, INT'L LABOR ORG., https://www.ilo.org/global/%20topics/wages/minimum-wages/monitoring/WCMS_473657/lang--en/index.htm (accessed Feb. 23, 2023). See also Jesse Wursten & Michael Reich, *Racial Inequality and Minimum Wages in Frictional Labor Markets*, IRLE Working Paper no. 101-21 (Feb. 2021), <http://irle.berkeley.edu/files/2021/02/Racial-Inequality-and-Minimum-Wages> (finding that minimum wage increases between 1990 and 2019 reduced Black-white wage gaps by 12% overall, and by 60% for workers with a high school diploma or less; while wage increases boosted earnings for men and women of all races, Black workers, and particularly Black women, experienced the greatest gains).