

ESSENTIAL WAGES

An analysis of New York State's proposed elimination of the tipped minimum wage and its impact on low-wage women workers

Ending the tipped minimum wage would substantially increase women's incomes

93

%

Executive Summary

New York’s One Fair Wage Act ([Assembly Bill 02244/Senate Bill 00808](#)) amends the State’s minimum wage law to eliminate the lower minimum cash wage for tipped workers. It requires that all employers pay tipped employees the state’s full regular minimum wage—\$15 per hour for most of the state’s workers—by 2026.¹

The Gender Equity Policy Institute conducted an analysis of the potential impacts of New York’s One Fair Wage Act by gender, race, and ethnicity.² The Act received a score of 93 percent, indicating it meets almost all the criteria for advancing gender, racial, ethnic, and intersectional equity, earning it recognition as a model gender equity action policy.

The Institute finds if the One Fair Wage Act were to pass and be enacted into law:

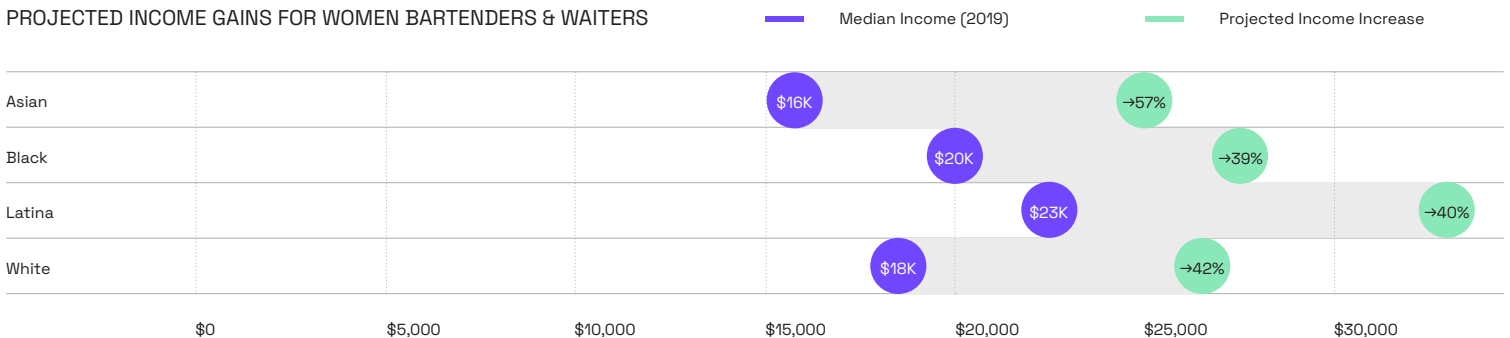
- Approximately 433,000 New York workers across hospitality, personal service, and other occupations where tipping is common would benefit.³
- Approximately 288,000 workers currently making the subminimum tipped wage, of whom 63% are women, would be guaranteed higher earnings.⁴
- 58% of tipped restaurant and food service workers, the principal industry affected by the Act, are women.

- 73% of New York’s 204,000 tipped food service workers are waiters and bartenders and 62% of these waiters and bartenders are women.⁵
- Most women waiters and bartenders would see their annual income rise more than 40% over their current earnings.⁶
- Full-time women waiters and bartenders would see gains of \$10,400 per year.
- The majority of women of color⁷ in these two occupations would see annual gains of roughly \$9,100 a year.
- 56% of waiters and bartenders currently make less than \$15 per hour; they would see average annual gains of \$7,860.

The current tipped minimum wage leaves many of these workers struggling to make ends meet. For example, women waiters’ earnings are only 45 percent of the national median income—they are even lower compared to New York’s relatively high median income. One out of four women working in New York as waiters or bartenders fall below 150 percent of the federal poverty line.⁸

**New York Waiters and Bartenders Make Up 73% of Tipped Food Service Workers
Passing the One Fair Wage Act Would Result in Substantial Income Gains**

PROJECTED INCOME GAINS FOR WOMEN BARTENDERS & WAITERS



GEPI analysis of ACS (2019)

Background

The federal tipped minimum cash wage stands at just \$2.13 per hour, roughly \$5 less than the regular minimum wage of \$7.25 per hour. Although employers are required by law to pay a cash wage equal to the minimum wage if a tipped worker's tips on average do not reach the statutory minimum wage, the provision is difficult to enforce and widely violated.⁹ In 21 states, tipped workers receive the federal minimum cash wage of \$2.13 per hour. Seven states have a single equal minimum wage for all workers—that is, tipped workers receive the full minimum wage from their employers, as well as keep their tips.¹⁰ New York is one of 29 states which preserves a separate lower cash tipped wage, while at the same time setting it higher than the federal sub-minimum tipped wage.

New York State efforts to raise the tipped minimum wage are part of the broader national campaign to increase the minimum wage to \$15 per hour. Following successful advocacy, the State is currently phasing in an increase of the regular minimum wage to \$15 per hour. (Upon reaching \$15 per hour, the minimum wage will subsequently increase based on economic indices such as the Consumer Price Index.)

But under current law, the tipped minimum cash wage will top out at only \$10 per hour. Thus, barring any change such as that mandated in the proposed One Fair Wage bill, New York State will permanently entrench the \$5 per hour deficit in earnings between tipped workers and all other minimum wage workers.

The proposed [Assembly Bill 02244](#) and [Senate Bill 00808](#), and related bills eliminating subminimum wages for farmworkers and disabled workers, would correct this inequity by amending the State's minimum wage law to equalize the minimum wage for all workers.

Importantly, the proposed bills also codify the Governor's 2019 Executive Order eliminating the tipped minimum wage for miscellaneous and personal service workers, such as nail salon workers, hairdressers, and car wash workers. The bills would also allow tip-sharing with back of house restaurant workers—a practice that is common throughout the nation but is prohibited under current New York law. (See [Appendix Table 1](#))

Low Wages and Gender and Racial Wage Gaps in The Restaurant Industry

With previous legislation in New York that increased the minimum wage to \$15 per hour for fast food workers and the 2019 executive order on miscellaneous tipped workers, food serving staff in restaurants and hotels are the principal groups still subject to the subminimum tipped minimum wage.¹¹

Waiters and bartenders account for 73 percent of New York food service workers currently subject to the sub-minimum tipped wage. Roughly 145,000 bartenders and waiters work in New York State, according to the Institute's analysis of 2019 census data, the most recent year for which data is available.¹²

These workers, like so many other minimum wage workers, are disproportionately women and women of color. Women make up 62 percent of waiters and bartenders. Among women waiters, nearly half (47 percent) identify as Black, Latina, Asian, Indigenous, Pacific Islander, or multiracial. (See [Appendix, Table 2](#))

Among the lowest paid tipped food service workers, women are overrepresented— especially Asian and Black women. Among the highest paid, white men are overrepresented. Most white men bartenders earn \$35,000 or more a year; more than half of Asian women waiters earn less than \$14,300.

The gender pay gap in the New York food service industry is large and wider than the national gender wage gap. Among waiters, women's earnings are 25 percent lower than men's earnings. Among bartenders, they are 35 percent lower.

The median income in 2019 for women waiters working under the tipped minimum wage was \$18,748. For bartenders, it was \$20,716. That amounts to, respectively, 45 and 50 percent of the national median income (\$41,357). Among all waiters, Asian women's earnings were the lowest, at a median of \$14,220. Among all women waiters, Latina women's earnings were the highest, at a median of \$24,456. Twenty-four percent of women waiters and bartenders working in New York are living on income that is at or less than 1.5 times the federal poverty line.¹³

WOMEN WAITERS AND BARTENDERS EARN JUST HALF OR LESS OF THE NATIONAL MEDIAN INCOME OF \$41,357

	Women	Men
Waiter	\$18,748	\$25,000
Bartender	\$20,716	\$33,000

GEPI analysis of ACS (2019)

Contrary to claims made by opponents of raising the tipped minimum wage, food service work is not a casual side-hustle for the vast majority of women. More than eight out of ten work at least 20 hours a week. Sixty-one percent of Latinas and 55 percent of Asian women clock 35 or more hours a week, while 71 percent of all women bartenders work 30 or more hours a week.

Likewise, critics' assertions that tips more than make up the difference between the regular and lower tipped cash minimum wage are similarly misleading. The Institute's analysis shows this is plausible for only one group: bartenders who are white non-Latino men. Their median income of \$35,000 is nearly twice that of white women waiters (\$18,000) and nearly two and a half times that of Asian women waiters (\$14,220). White non-Latino men waiters are also low-wage workers (\$24,000).

Indeed, even when accounting for tips, a large percentage of waiters and bartenders still report staggeringly low incomes.¹⁴ One out of five women report earning less than \$8.35 per hour, the lowest minimum wage for food service workers in New York State. Specifically, 32 percent of white women and 30 percent of women of color earn less than \$10 per hour from wages and tips.

For the vast majority of tipped food service workers, the tipped sub-minimum wage is simply insufficient for family economic security.

The Tipped Minimum Cash Wage: A Relic of Racial And Gender Discrimination

The current economic insecurity and disparities experienced by tipped food service workers are not

simply the unfortunate result of impersonal market forces. They are the predictable legacy of race and gender discrimination written into law when the minimum wage was first enacted nine decades ago.

The minimum wage was one of the landmark reforms of the New Deal. But Southern segregationists in Congress—as they did on so many other pieces of mid-20th century progressive legislation—leveraged their disproportionate power to entrench white economic dominance and deprive Black women and men of the new rights and benefits created by the law.¹⁵ Likewise, the law reflected pervasive bias against women—attitudes by no means limited to the South.¹⁶

The 1938 Fair Labor Standards Act (FLSA), which established the minimum wage, exempted restaurants and hotels from its provisions. These industries employed large numbers of Black people and women, as did many other exempted industries such as agriculture, domestic work, and nursing homes. Nearly one-third of all Black workers worked in industries excluded from FLSA protection and regulation.¹⁷

In 1966, the Johnson administration secured legislation to extend the minimum wage to all industries and raise the minimum wage. For the first time it brought most tipped workers under its purview. The revision to the FLSA had powerful positive effects on the incomes of low-wage workers. A recent study by the economists Ellora Derenoncourt and Claire Montialoux concludes that the "extension of the minimum wage can explain more than 20 percent of the decline in the racial earnings gap between 1965 and 1980."¹⁸

Yet even as the reform finally brought tipped workers under minimum wage regulations, it established a lower cash wage for tipped workers—at 50 percent of the minimum wage. That formula was maintained for three decades through subsequent raises of the minimum wage. But in 1996, the restaurant industry lobbied successfully to decouple the tipped minimum from the regular minimum wage and permanently freeze the federal tipped minimum at its 1991 level of \$2.13 per hour. Twenty-five years later the federal cash tipped wage remains \$2.13 per hour.

New York's One Fair Wage bill would permanently end the lower tipped sub-minimum cash wage in the State. By eliminating the structural source of inequality in the hospitality industry, the bill directly tackles the legacy of gender and race discrimination which remains embedded in American minimum wage laws. The decades of income lost to discrimination will come to an end upon the law's enactment, and women and people of color who work in tipped occupations will stand on an equal footing with all other workers going forward.

Impacts: Equitable Benefits and Substantial Income Boost

New York's One Fair Wage bill requires employers to pay tipped hospitality workers the State's full minimum wage and prohibits them from crediting tips toward that amount. If enacted and signed into law, the policy change would lead to substantial increases in the earnings of all tipped workers.

The Gender Equity Policy Institute focused our data analysis on the two occupations that account for three-quarters of New York food service workers: waiters and bartenders.¹⁹ The income gains for the 56 percent of waiters and bartenders currently making below \$15 per hour would be particularly dramatic. For these men and women, average annual income will increase by \$7,860. That amounts to a 53 percent raise over the 2019 median income for these lowest-paid tipped food service workers (\$14,889).

Passing the One Fair Wage bill will also bring impressive income gains to those workers currently making more than \$15 per hour. The available data on income (from the U.S. Census Bureau, American Community Survey) reports cash wages and tips combined; it is impossible to disaggregate the two. As past research on minimum wage policy indicates, tipping is expected to remain consistent; therefore, we can project a guaranteed \$5 hourly wage increase to all workers, once the equal minimum wage policy has been fully implemented.

Full-time tipped workers will get a raise of over \$10,000 annually. The Institute's analysis projects annual

income increases of more than \$7,800 for the majority of women waiters.²⁰ Compared to the 2019 median income for women waiters working under the current lower minimum cash wage for tipped occupations, that amounts to a 42 percent raise.

The majority of women of color, who tend to clock more hours weekly, will see even larger increases of at least \$9,100 annually.

Critics charge that a number of negative impacts ensue from raising the minimum wage.²¹ But the research on the minimum wage, in general and on states with equal minimum wages specifically, indicates that the impact to levels of employment and business success are minor.²² In states with equal minimum wages, there has not been significant job loss and tipped workers earn higher wages and incomes than in tipped wages states.²³

The Institute attempted to analyze the impact of the bill on LGBTQ+ people, but ACS does not directly collect any information on respondent gender identity or sexual orientation. The only question that can indirectly speak to LGBTQ+ identity is through coding households by same-sex couples, married and unmarried. Yet this only provides information on LGBTQ+ individuals who are living with same-sex partners or spouses. Moreover, the data does not allow for any meaningful analysis of sexual minorities or gender identity, as the survey questions focus on biological sex. We nonetheless anticipate that LGBTQ+ individuals working in the industry will see income boosts.

Summary

The substantial hourly wage increase that will result from eliminating the tipped sub-minimum wage will provide food service and hospitality workers with higher and more stable incomes for the same amount of work.

By stabilizing incomes through adequate cash wages, the policy is likely to reduce workers' vulnerability to gender and race discrimination at the hands of customers—a persistent workplace problem that is beyond the reach of labor law to remedy. By thus freeing

waiters and bartenders from the whims of customers, the bill will enhance workplace rights.

The Institute’s analysis of the positive economic impacts of raising the tipped minimum wage accords with the prevailing research on the minimum wage, including that by the Congressional Budget Office. Increasing the minimum wage benefits low-income workers, particularly women and people of color. It has the potential to lift millions out of poverty nationally. For many other workers whose incomes are above the federal poverty line but remain low, raising the tipped minimum wage will also have substantial benefits.²⁴ Higher wages provide greater economic stability, enabling the most disadvantaged minimum wage workers—women and women of color—to have increased food and housing security, afford higher education and childcare, and improve their overall well-being.

The economic benefits of this measure are substantial for all tipped food service workers. The bill also protects the recent income gains of other tipped workers by codifying the raise enacted by executive order. Furthermore, by allowing tip sharing throughout food service establishments, the measure will boost incomes for other low-wage workers such as dishwashers and line cooks.

Particularly noteworthy is that One Fair Wage bill raises incomes for women of color in a sector in which historic gender and race discrimination have intersected and dramatically compounded the disparities and inequalities they experience.

Conclusion

New York State’s One Fair Wage measure takes a major step toward raising incomes in occupations in which women and people of color are overrepresented and underpaid.

The Gender Equity Policy Institute’s analysis of New York’s One Fair Wage Act found that the bill meets almost all the criteria for advancing gender, racial, ethnic, and intersectional equity. The Act received a score of 93 percent, earning it recognition as a model bill on gender equity action.

The measure rectifies systemic racism and sexism by tackling the ongoing effects of prior legally codified pay discrimination. It tackles longstanding and stubborn inequalities that diminish the opportunity and well-being of large numbers of people, especially women and women of color.

The Institute calls attention, particularly, to lessons policymakers in other jurisdictions and sectors can glean about advancing gender equity from this model bill:

Gender+ Awareness: The bill reflects an awareness of the gender and racial biases embedded in the tipped minimum wage. It proactively targets current wage inequality, eliminates the systemic foundation of the disparities, and thus advances gender and racial equity.

Rebalancing Financial Benefits in the Economy: The pay increase will boost earnings and living standards for all low-wage tipped workers in New York State food. Even though the bill takes a universal approach—that is, all tipped workers benefit equally from the wage increase—it will substantially raise the incomes of those most disadvantaged under the current unfair system of subminimum wages: women and women of color.

Innovative Approach to Structural Inequality and Historical Legacies of Discrimination: The bill charts a path for tackling systemic gender and racial discrimination without recourse to the courts and the attendant substantial burden to prove current/intentional discrimination.

Multiplier Effects: While a full quantitative analysis is beyond the scope of this report, sizable income boosts are consistent with many other positive outcomes for the well-being of workers and their families.²⁶

Gender+ Transformative: The bill provides immediate benefits to workers most negatively impacted by the pandemic, while at the same time it advances broader systemic change.

Appendix

TABLE 1:
NEW YORK STATE WORKERS IMPACTED BY ONE FAIR WAGE ACT

	Total	Women	Men
All Food Services (Tipped)	100% 204,434	57.60% 117,761	42.40% 86,673
Waiters & Bartenders (Tipped)	100% 144,881	61.80% 89,536	38.20% 55,345
Other Hospitality & Food Services (Tipped)	100% 59,553	47.39% 28,225	52.61% 31,328
Personal Service (Tipped)	100% 83,683	76.27% 63,790	23.73% 19,848
Food Workers (Tipped)	100% 144,737	28.75% 41,606	71.07% 102,861
Other (Tipped)	100% 19,585	12.65% 2,477	87.35% 17,107

GEPI analysis of ACS (2019)

TABLE 3:
PROJECTED ANNUAL INCOME GAINS BY GENDER, RACE AND ETHNICITY
NEW YORK STATE WAITERS & BARTENDERS

	Number of Individuals	Projected Gains per Person
Women (All)	89,536	\$7,800
Men (All)	55,345	\$9,100
Women of Color	39,639	\$9,100
Men of Color	25,933	\$10,400
Asian Women	10,955	\$9,100
Black Women	8,796	\$7,800
Latina Women	19,888	\$9,100
White Women	49,897	\$7,800
Asian Men	6,325	\$10,400
Black Men	3,911	\$7,800
Latino Men	15,697	\$10,400
White Men	29,412	\$9,100

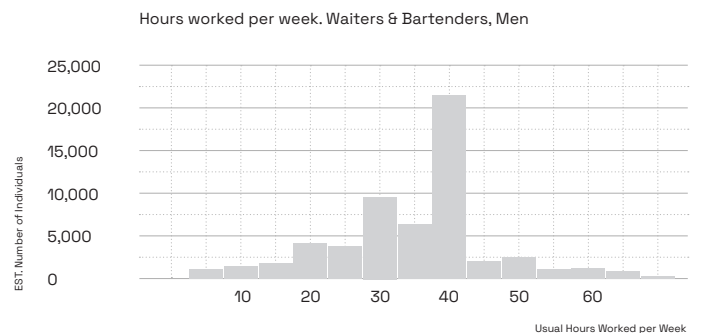
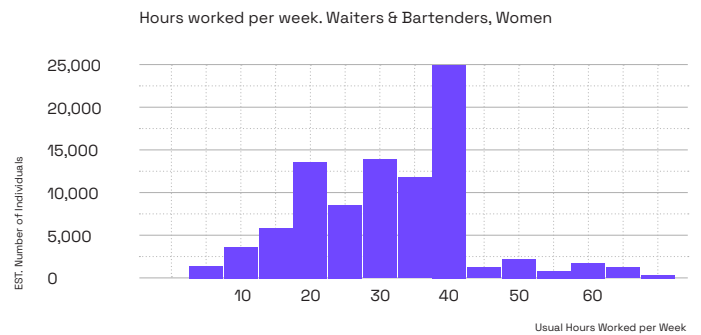
GEPI analysis of ACS (2019)

TABLE 2:
NEW YORK STATE WAITERS & BARTENDERS BY GENDER, RACE AND ETHNICITY

	Waiter	Bartender
Asian Women	8.22% 9,397	5.10% 1,558
Asian Men	4.42% 5,058	4.14% 1,267
Black Women	6.72% 7,679	3.65% 1,117
Black Men	3.07% 3,509	1.31% 402
Latina Women	15.28% 17,462	7.94% 2,426
Latino Men	10.63% 12,153	11.59% 3,544
White Women	34.30% 39,206	34.97% 10,691
White Men	17.36% 19,846	31.29% 9,566
Grand Total	100% 114,310	100% 30,571

GEPI analysis of ACS (2019)

FIGURE 1:
HOURS WORKED PER WEEK BY GENDER, WAITERS & BARTENDERS



GEPI analysis of ACS (2019)

Sources

¹ New York State's increase of the regular minimum wage to \$15 is currently being phased in regionally under different schedules, with the tipped minimum wage rising to a maximum of \$10 per hour under current law. Under the proposed bills, the tipped minimum will reach \$15 per hour by 12/31/2025 in New York City, Nassau, Suffolk, and Westchester Counties. In the rest of the state, by 12/31/2026, the tipped minimum wage must equal the regular minimum. <https://www.labor.ny.gov/workerprotection/laborstandards/workprot/minwage.shtm>. The difference between the regular minimum wage and the tipped minimum currently ranges from \$4.15-5.00 per hour. (Economic Policy Institute, Minimum Wage Tracker https://www.epi.org/minimum-wage-tracker/#/min_wage/New%20York).

² There was insufficient data in the ACS to measure impacts by gender identity and sexual orientation.

³ Gender Equity Policy Institute analysis of American Community Survey (2019), Steven Ruggles, Sarah Flood, Sophia Foster, Ronald Goeken, Jose Pacas, Megan Schouweiler and Matthew Sobek. IPUMS USA: Version 11.0 [dataset]. Minneapolis, MN: IPUMS, 2021. <https://doi.org/10.18128/Doi10.V11.0>. (Hereafter, GEPI Analysis of ACS (2019), IPUMS USA.)

⁴ Includes all tipped food service workers and tipped personal service workers. Ibid.

⁵ Ibid.

⁶ Income gain is calculated for full implementation of the law, at which time the differential between the tipped and regular minimum wages will be \$5 per hour. Ibid.

⁷ Includes women waiters who identify as Black, Latina, Asian, Pacific Islander, Indigenous, multiracial, or other. Ibid.

⁸ +Among women bartenders, 15 percent earn incomes that fall at or below 150 percent of the federal poverty line. Ibid.

⁹ "Why the U.S. Needs a \$15 Minimum Wage: How the

Raise the Wage Act Would Benefit U.S. Workers and Their Families," *Economic Policy Institute* (blog), accessed February 3, 2021, <https://www.epi.org/publication/why-america-needs-a-15-minimum-wage/>.

¹⁰ Dept. of Labor (DOL), Consolidated Minimum Wage Table, Effective Date Jan. 1, 2021 <https://www.dol.gov/agencies/whd/mw-consolidated>

¹¹ Other bills before the New York State legislature eliminate the sub-minimum wage for disabled workers and farmworkers, also raising those minimum wages to \$15 per hour. There is significant overlap in the sponsors of the various minimum wage bills.

¹² There are also approximately 59,550 workers in other food and hospitality service occupations, such as hosts, dining room and cafeteria attendants, and bartender helpers (GEPI Analysis of ACS (2019), IPUMS USA).

¹³ Analysis of employees working 20+ hours/week (GEPI Analysis of ACS (2019), IPUMS USA).

¹⁴ In the American Community Survey (ACS, 2019), reported total income includes wages paid by employers and tips received from customers (ACS Codebook, IPUMS-USA ACS 2019).

¹⁵ Ira Katznelson, *When Affirmative Action Was White: An Untold History of Racial Inequality in Twentieth-Century America*, Reprint edition (New York London: W. W. Norton & Company, 2006).

¹⁶ Suzanne Mettler, *Dividing Citizens: Gender and Federalism in New Deal Public Policy*, 1st edition (Ithaca, N.Y: Cornell University Press, 1998).

¹⁷ Ellora Derenoncourt and Claire Montialoux, "Minimum Wages and Racial Inequality," *The Quarterly Journal of Economics*, September 14, 2020, <https://doi.org/10.1093/qje/qjaa031>.

¹⁸ Ibid.

¹⁹ Disaggregating occupations by gender, race, and ethnicity necessitated sufficiently large samples across both dimensions of interest. Waiters and bartenders (a total of 144,881 individuals) represented a diverse sample that allowed for best estimating economic

variables, such as hourly wage and projected income gains, across both respondent gender and race/ethnicity - a total of 16 sub-groups.

²⁰ Individual income gains will vary based on number of hours worked (GEPI Analysis of ACS (2019), IPUMS USA).

²¹ See the Congressional Budget Office's literature review (pp. 39-45) for a comprehensive discussion of the academic debates on the effects of minimum wage hikes. (Congressional Budget Office, "The Effects on Employment and Family Income of Increasing the Federal Minimum Wage" (Washington, D.C: Congressional Budget Office (CBO), July 2019), <https://www.cbo.gov/publication/55410>. 39-46.)

²² Paul J. Wolfson and Dale Belman, "15 Years of Research on U.S. Employment and the Minimum Wage," SSRN Scholarly Paper (Rochester, NY: Social Science Research Network, December 10, 2016), <https://doi.org/10.2139/ssrn.2705499>; Doruk Cengiz et al., "The Effect of Minimum Wages on Low-Wage Jobs: Evidence from the United States Using a Bunching Estimator" (National Bureau of Economic Research, January 14, 2019), <https://doi.org/10.3386/w25434>.

²³ Sylvia A Allegretto and David Cooper, "Twenty-Three Years and Still Waiting for Change: Why It's Time to Give Tipped Workers the Regular Minimum Wage" (Washington, D.C: Economic Policy Institute, July 10, 2014).

²⁴ Congressional Budget Office, "CBO Federal Minimum Wage Report." Of the workers who would benefit from a raise in the federal minimum wage to \$15 per hour by 2025, 59 percent are women and 23 percent are Black or Latina women (EPI, "Why the U.S. Needs a \$15 Minimum Wage.").

²⁵ For a discussion of the challenges of redressing discrimination through a legal approach, given the composition of the courts and recent precedents, see Robin Lenhardt, "Race Audits," *Hastings L.J.* 62 (2011 2010): 1527-78.

²⁶ See, for example, Robert H. DeFina, "The Impact of State Minimum Wages on Child Poverty in Female-Headed Families," *Journal of Poverty* 12, no. 2 (June 5, 2008): 155-

74, <https://doi.org/10.1080/10875540801973542>; George Wehby, Dhaval Dave, and Robert Kaestner, "Effects of the Minimum Wage on Infant Health" (National Bureau of Economic Research, June 27, 2016), <https://doi.org/10.3386/w22373>.

The Gender Equity Policy Institute is a nonprofit organization dedicated to advancing opportunity, fairness, and well-being for all people through research and education exposing the gender impacts of the policies, processes, and practices of government and business.

We conduct and publish research on the best practices for advancing gender equity. By educating policymakers, business leaders, and advocates about the inequities and financial disparities embedded in seemingly neutral economic and political processes, we provide the tools and knowledge that leaders need to rebalance systems, guarantee equal benefits and opportunities, and secure a just and sustainable future for all Americans.

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