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**Testimony to the Joint Legislative Budget Committee
on Workforce Development**

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To the respected members of the Committee:

Hello, my name is Melissa Autilio Fleischut and I am the President and CEO of the New York State Restaurant Association. The Association was founded in 1935 and represents thousands of restaurants across the state from Brooklyn to Buffalo and Montauk to Massena. Its mission is to help restaurateurs succeed and we believe the members of this committee will be reviewing and voting on legislation that will impact a restaurant's ability to do just that.

The restaurant industry is a vital part of the New York State economy. One in three Americans got their first job working in a restaurant. Nearly half of all Americans have worked in the restaurant industry. Eight out of ten restaurant owners got their start with an entry-level job in the restaurant industry. Restaurants are the place where business deals are made, where people can rise from the dish room to the board room, and where organizations go for the philanthropic support that helps them do great work in local communities across the country. When towns and cities are looking to revitalize an area it is often the restaurant industry that steps up first, providing jobs and investing capital in the community.

One of the most discussed policy proposals in the industry and in the legislature has been raising the minimum wage to \$15 an hour. While that proposal alone would be extremely difficult for the industry to comply with, I would like to make sure all legislators are aware that ANY increase to the statutory minimum wage will automatically trigger a wage board for tipped employees. We are asking today that if the legislature agrees to raise the minimum wage to any level, they also put a moratorium on wage boards for tipped employees for five years and not increase the cash wage for tipped employees any higher.

A wage board just last February increased the cash wage for tipped employees from \$5.00 to \$7.50 an hour effective December 31, 2015. That is an unprecedented 50% increase in labor costs! This has shrunk the tip credit, or the difference between the regular minimum wage and the cash wage for tipped employees, from \$3.75 to just \$1.50 an hour.



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Under federal law, tips are considered wages, so they are calculated as part of an employees' wages to satisfy minimum wage requirements. Any time a tipped employees' wages plus tips do not equal minimum wage, the employer must make up the difference. However, the New York State Department of Labor does not find this to be a common violation because tipped employees are the highest compensated employees in the restaurant industry.

The industry is still trying to figure out how to deal with this massive increase to our budgets and another wage board or another increase would only deepen the hardship on our businesses. The 50% increase to front of the house labor costs is forcing business owners to look for ways to cope, none of which are good. One idea is to install tablets at tables and have fewer servers. Another is to eliminate tipping and increase menu prices by 25%. Neither option is good for wait staff; they will either lose their jobs or see their take home pay cut. Neither solution is good for customers who face higher prices and less service staff. Any increase to the cash wage will make these problems even worse.

So today we are asking you to freeze the cash wage at \$7.50 and put a moratorium on wage boards for tipped employees for five years. We simply cannot weather a continuous barrage of labor cost increases. A five year freeze will help the industry adjust to the recent massive increase and will allow us to continue to keep our doors open and our employees in their jobs.

Thank you for your time and again, I ask you to please freeze the cash wage at \$7.50 and place a moratorium on wage boards for tipped employees for five years. Our businesses and employees' jobs depend on it.

Melissa Autilio Fleischut
President and CEO
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