

REPORT OF THE FAST FOOD WAGE BOARD TO THE NYS COMMISSIONER OF LABOR

I. Scope and Method of the Work of the Wage Board

The Commissioner of Labor convened this Wage Board on May 20, 2015, to inquire into and report and recommend adequate minimum wages and regulations for workers in fast food chains, pursuant to Labor Law sections 653(1) and 659.1. The Commissioner directed the Wage Board to “focus on that segment of the hospitality industry commonly referred to as fast food chains, and on the workers they employ to prepare food and serve customers” and explained as follows:

For purposes of this wage board, the term “fast food chains” refers to limited service restaurants, where customers order at the counter and pay in advance, which are large chains with multiple locations nationally, and the term “fast food workers” refers to the workers who prepare food and serve customers at such establishments.

The Commissioner noted that his review of data and studies indicated that in New York, nearly 60% of fast food workers are in families enrolled in at least one public assistance program and some 75% of fast food workers earn wages at the lowest level reported in Occupational Employment Statistics surveys. Nationally, he noted, fast food workers are twice as likely as all other workers to be in families that receive public assistance, nearly half (46%) of fast food jobs provide between 20 and 35 hours of work per week, and 87% of fast food workers do not receive health benefits.

During its tenure, the Wage Board received written and oral testimony from fast food workers; employers; academics; policy experts; community, labor, and religious organizations; elected officials; and concerned citizens, as well as statistical information from the New York

State Department of Labor's Division of Research and Statistics. Below is a summary of the Wage Board's findings and recommendations based on this testimony and information, as well as the Wage Board's independent knowledge of the industry and the economy.

A. Statutory Purpose and Authority

The Wage Board is guided by the following statement of public policy declared by the legislature in enacting the Minimum Wage Law and authorizing a process for minimum wages to be increased administratively by the Commissioner, after convening a Wage Board and receiving its report and recommendations:

There are persons employed in some occupations in the state of New York at wages insufficient to provide adequate maintenance for themselves and their families. Such employment impairs the health, efficiency, and well-being of the persons so employed, constitutes unfair competition against other employers and their employees, threatens the stability of industry, reduces the purchasing power of employees, and requires, in many instances, that wages be supplemented by the payment of public moneys for relief or other public and private assistance. Employment of persons at these insufficient rates of pay threatens the health and well-being of the people of this state and injures the overall economy.

Accordingly, it is the declared policy of the state of New York that such conditions be eliminated as rapidly as practicable without substantially curtailing opportunities for employment or earning power. To this end minimum wage standards shall be established and maintained.

Labor Law § 650.

The Wage Board also recognizes that, in recommending minimum wages and regulations, Labor Law § 654 requires that it take into account: (1) the amount sufficient to provide adequate maintenance and to protect health; (2) the value of the work or classification of work performed; and (3) the wages paid in the State for work of like or comparable character. The Wage Board further acknowledges that Labor Law § 655.5(a) prescribes that the minimum wage that the Wage Board recommends should not be less than the statutory minimum wage

rate,¹ or more than an amount sufficient to provide adequate maintenance and to protect the health of the employees.

B. Wage Board Meetings and Hearings

The Wage Board met on eight occasions, including four hearings, where members of the public testified, and four meetings of the Wage Board. Each of the meetings and hearings were publicized in advance, open to the public, videotaped, and posted as webcasts accessible from the Department's website at www.labor.ny.gov/fastfoodwageboard. The dates and locations were as follows:

- May 20, 2015, the Wage Board held its first meeting in Buffalo and New York City by videoconference with an estimated 100 observers;
- June 5, 2015, the Wage Board held its first public hearing in Buffalo with an estimated 300 observers and 45 persons giving testimony;
- June 15, 2015, the Wage Board held its second public hearing in New York City with an estimated 350 observers and 61 persons giving testimony;
- June 18, 2015, the Wage Board held its third public hearing in Garden City with an estimated 300 observers and 49 persons giving testimony;
- June 22, 2015, the Wage Board held its fourth hearing in Albany with an estimated 350 observers and 71 persons giving testimony;
- June 29, 2015, the Wage Board held its second meeting in Albany with an estimated 120 observers;
- July 22, 2015, the Wage Board held its third meeting in New York City with an estimated 100 observers;
- July 27, 2015, the Wage Board held its fourth meeting in New York City, Buffalo and Washington, DC.

At the Wage Board's first meeting on May 20, 2015, acting Commissioner of Labor Mario J. Musolino presented his charge to the Wage Board, General Counsel Pico Ben-Amotz, who served as Secretary to the Wage Board, reviewed the Wage Board's authority and responsibilities, and James Brown, from the Department's Division of Research and Statistics presented data and statistics about employment and wages in New York State's fast food

¹ Except as expressly otherwise provided in Labor Law § 655.5(a) and (c).

industry. The Wage Board discussed obtaining public comment and agreed to schedule four public hearings in Albany, Buffalo, Long Island and New York City. The Department's Division of Research and Statistics also presented additional data to the Wage Board at its subsequent meetings.

C. Testimony and Documents Considered by the Wage Board

During the course of four public hearings and the public comment period, the Wage Board heard oral testimony from some 225 people and received over 2,000 written comments and submissions. The Wage Board received various governmental, academic, and other studies and reports presenting data and statistics, including, but not limited to, the following:

Government

- Congressional Budget Office. *The Budget and Economic Outlook: 2015 to 2025*. January 2015;
- NYS Department of Labor, Division of Research and Statistics. *Briefing Document on Employment and Wages in New York State's Fast-Food Restaurants, Prepared for the Minimum Wage Board, May 2015, by Division of Research and Statistics, New York State Department of Labor*. May 2015 ("NYS DOL Briefing Document");
- NYS Department of Labor, Division of Research and Statistics. *Minimum Wage 2015*. June 2015;
- NYS Department of Labor, Division of Research and Statistics. *Local Municipalities with a Minimum Wage that Differs from State Minimum Wage, Arranged by State*. June 2015;
- NYS Department of Labor, Division of Research and Statistics. *New York Cost of Living for 2015*. June 2015;
- NYS Department of Labor, Division of Research and Statistics. *New York City and Balance of State Wages for Fast Food Restaurants and Private Sector Employment Growth*. June 2015; and

Academic

- Berkeley, University of California, Center for Labor Research and Education and the University of Illinois at Urbana-Champaign, Department of Urban & Regional Planning. *Fast Food, Poverty Wages: The Public Cost of Low-Wage Jobs in the Fast-Food Industry*. Sylvia Allegretto, Marc Doussard, Dave Graham-Squire, Ken Jacobs, Dan Thompson, Jeremy Thompson. October 15, 2013;
- Berkeley, University of California, Institute for Research on Labor and Employment, Center on Wage and Employment Dynamics. *The Proposed Minimum Wage Law for Los Angeles: Economic Impacts and Policy Options*. Michael Reich, Ken Jacobs, Annette Bernhardt and Ian Perry. March 2015;

- Berkeley, University of California, Center for Labor Research and Education. *The High Public Cost of Low Wages: Poverty-Level Wages Cost U.S. Taxpayers \$152.8 Billion Each Year in Public Support for Working Families*. Ken Jacobs, Ian Perry and Jenifer MacGillvary. April 2015;
- Berkeley, University of California, Institute for Research on Labor and Employment. *Assessing the Impacts of a \$15 Minimum Wage*. Michael Reich. June 18, 2015;
- Berkeley, University of California, Center for Labor Research and Education. *Testimony to the New York State Wage Board, Albany New York, June 22, 2015*. Ken Jacobs. June 22, 2015;
- Buffalo, State University of New York, Center for Economic and Policy Studies, Department of Economics and Finance. *The Impact of Changes to the New York State Minimum Wage in Western New York*. Bruce Fisher and Frederick Floss. June 5, 2015;
- Buffalo, State University of New York, Department of Economics and Finance. *The Economic Impact of Changes to the New York State Minimum Wage on Franchises*. Frederick Floss. June 22, 2015;
- Canisius College, Wehle School of Business. *Franchising: An Innovative, Adaptable and Successful Business Model*. Howard R. Stanger. June 2015;
- Hofstra University, Center for Study of Labor & Democracy. *NYS Fast-Food Industry Wage Board Hearing, June 18, 2015, Testimony Submitted by Gregory DeFreitas, PhD*. Gregory DeFreitas. June 18, 2015.
- Hofstra University, Economics Department. *Raise the Minimum Wage for Fast Food Workers to \$15 an Hour*. Martin Melkonian. June 2015;
- Hofstra University, Anthropology and Labor Studies. *Testimony to the New Wage Board*. Sharon Kasmir. June 18, 2015;
- Milano School of International Affairs, Management and Public Policy. *NYS Department of Labor Hearing on Increasing the Minimum Wage in the Fast-Food Industry*. David R. Howell, PhD. June 15, 2015;
- Murphy Institute, City University of New York, School of Professional Studies. *Testimony of Stephanie Luce*. Stephanie Luce. June 15, 2015;
- Stony Brook, State University of New York. *Enact \$15/hr Wage for Fast Food Workers in New York*. Michael Zweig. June 18, 2015;
- University of Massachusetts, Political Economy Research Institute. *Testimony on A New York Fast Food Minimum Wage for the New York Fast Food Wage Board*. Dr. Jeannette Wicks-Lim. June 2015; and

Other

- Business Council of New York State. *Testimony to New York State Department of Labor "Fast Food Wage Board."* Kenneth J. Pokalsky. June 22, 2015;
- Competitive Enterprise Institute. *New York Fast Food Wage Board Testimony*. Aloysius Hogan. June 18, 2015.
- Demos. *Fast Food Failure: How CEO-to-Worker Pay Disparity Undermines the Industry and the Overall Economy*. Catherine Ruetschlin. 2014;
- Dunkin' Donuts. *Letter to Wage Board*. Multiple signatories. June 24, 2015;
- Economic Policy Institute. *New York State Department of Labor Wage Board Hearing on Increasing the Minimum Wage in the Fast-Food Industry – Albany*. David Cooper. June 22, 2015;

- Employment Policies Institute. *Testimony of Michael Saltsman, Research Director, Employment Policies Institute, Buffalo, NY, June 5th, 2015.* Michael Saltsman. June 5, 2015.
- Fight for Fifteen. *Testimony of Joan Moriarty, New York State Wage Board, Albany, New York.* Joan Moriarty. June 5, 2015;
- Fight for Fifteen. *Defining the Fast Food Industry.* Joan Moriarty. June 25, 2015;
- Fiscal Policy Institute. *NYS Department of Labor Wage Board Hearing on Increasing the Minimum Wage in the Fast-Food Industry.* James A. Parrott. June 5, 2015;
- Fiscal Policy Institute. *Letter to Members of the Fast Food Wage Board.* James A. Parrott. June 26, 2015;
- International Franchise Association. *Statement for the Record of the International Franchise Association Submitted to the New York State Fast Food Wage Board.* International Franchise Association. June 5, 2016;
- Manhattan Institute for Policy Research, Economics21. *Raising the Minimum Wage for Fast-Food Workers.* Diana Furchtgott-Roth. June 22, 2015.
- National Employment Law Project. *Testimony of Irene Tung: Hearing Before New York State Fast Food Wage Board, June 5, 2015, Buffalo, New York.* Irene Tung. June 5, 2015;
- National Employment Law Project. *Testimony of Paul Sonn: Hearing Before New York State Fast Food Wage Board, June 18, 2015, Garden City New York.* Paul Sonn. June 18, 2015;
- National Federation of Independent Business. *2015 Department of Labor Wage Board Hearing: Raising the Minimum Wage for Fast Food Workers.* Michael Durant. June 22, 2015;
- National Restaurant Association. *Statement of Proposed Minimum Wage Rate for Fast Food Workers Before the New York State Department of Labor Fast Food Wage Board.* Mike Whatley. June 25, 2015;
- New York State Association of Convenience Stores. *Comments of James S. Calvin, President, New York Association of Convenience Stores Submitted to the Fast Food Wage Board Concerning the Minimum Wage for “Fast Food” Workers.* James S. Calvin. June 22, 2015;
- New York State Restaurant Association. *Objections to the Fast Food Wage Board: The Restaurant Industry Perspective.* Melissa Autilio Fleischut. June 22, 2015;
- Strong Economy for All Coalition. *2015 Wage Board on Wages in the Fast Food Industry, New York State Department of Labor, Testimony of Michael Kink, Esq.* Michael Kink. June 22, 2015; and
- Unshackle Upstate. *Fast Food Wage Board Testimony.* Greg Biryła. June 22, 2015.

In addition to the above, the wage board also received and reviewed the testimony, comments and submissions from workers, employers, community and religious organizations, elected representatives, and members of the public in formulating its findings and recommendations. This report identifies and summarizes some of this material in the sections

that follow, but due to the volume of the record, the Wage Board respectfully refers the Commissioner to the video recordings and transcripts of the public hearings and copies of written comments as he considers this Report and Recommendation.

II. Conditions and Characteristics of the Industry

A. Nature of the Industry

The fast food industry in New York State employs between 164,000 and 200,000 workers in some 15,000 to 20,000 establishments throughout the state, depending on how the industry is defined and the underlying data sources. Fast food establishments include what the industry commonly refers to as quick-service restaurants and fast casual restaurants and may include snack and non-alcoholic beverage bars, serving such items as hamburgers, pizza, soda, french fries, juice, ice cream, coffee, sandwiches, and donuts. Such establishments are covered by industry codes established for the North American Industry Classification System (NAICS) for *Limited-Service Eating Places* (2007 NAICS code 7222) and *Limited-Service Restaurants* (2012 NAICS code 722513).

Franchising is the dominant business model in the fast food industry. Nine out of 10 fast food chains in New York State are franchised. Among the top 10 chains, 9 have franchised units and the proportion of their locations that are operated by franchisees exceeds 97%. Fast food workers at chain restaurants make up 62% of all fast food workers. Chained fast food in New York State is highly concentrated. Taken together, the top 5 chains by store count in the state make up 51% of chained fast food store locations in the state. Adding the next five largest chains, the top 10 make up 65% of all chained fast food locations.

The industry enjoys large profits and growth. Employment growth has been 57% statewide and 87% in New York City between 2000 and 2014, while overall private sector jobs growth in New York was 7%. According to S&P Capital IQ, in 2014, the top 14 publicly-traded fast food chains in New York had profits of over \$9.3 billion, representing a 14.5% increase between 2010 and 2014. The figure would be much larger if it included the profits of privately-held companies, which generally do not make their financial information public. Fast food chains paid out \$5.1 billion in dividends and spent another \$5.7 billion in share buybacks in 2014.

This successful service industry also stands out as heavily subsidized by taxpayers, through public assistance paid to its workforce. The combination of profits and impoverishment are the product of the industry's preferences for paying minimum wages and offering part-time hours on irregular schedules. Workers are left with weekly wages and schedules that are difficult to live on or work around, as set forth below.

B. Fast Food Workers

Fast food workers perform a variety of functions related to food preparation and service, and property maintenance, including cooking, food and drink preparation, counter-service including cashier functions, stocking supplies and equipment, cleaning, routine maintenance, delivery, and security.

Fast food workers are twice as likely to be members of families with earnings below or near poverty than the workforce as a whole. These workers are among the lowest paid in the United States. According to a study conducted in 2013 by the University of California Berkeley and the University of Illinois, Urbana-Champaign, fast food workers and their families are more than twice as likely as working families in general to be enrolled in public assistance programs.

Nationally, 52% of fast food worker families participate in at least one public benefit compared to 25% of all working families. For years 2007-2011, of the \$243 billion spent on public assistance per year nationally, \$7 billion was for fast food workers. The story is much the same in New York State, where 60% of fast food workers are on public assistance. Updating figures in the Berkeley-UIC study to reflect 2014 employment levels and to capture state Earned Income Tax Credit benefits, the total cost of public assistance provided to fast food workers in New York is \$903 million per year.

In New York State, 71.5% of fast food workers are 22 years old or older, with over 28% between the ages of 35 and 54, according to the NYSDOL Briefing Document. Many workers who testified at the Wage Board hearings reported being a parent or caregiver for a parent or other family member, and according to the experts, 26% of fast food workers have children and 68% are main wage earners in their families. Over 76% of fast food workers in the state have at least a high school diploma or GED, 47.3% have attended college and 20.1% have at least a bachelor's degree.

C. Wages

According to government statistics and worker testimony, wages of fast food workers are universally low. Annual average wages in this industry are \$15,954, statewide, with regional rates ranging from a low of \$11,874 in the Mohawk Valley to a high of \$17,667 in New York City. To put those figures into context, these wages correspond to 136% of poverty guidelines for a family of one, statewide, 101% in the Mohawk Valley and 150% in New York City. At each of those percentages of poverty, fast food workers would be income eligible for a range of public assistance nutritional and other programs.

In terms of hourly wage rates, recognizing the part-time hours that characterize work in this industry, the median wage of New York State fast food workers, including managers, is \$9.03 per hour, and many of the workers reported being paid the New York State statutory minimum wage of just \$8.75 per hour. Most occupations fall into a narrow band of \$8.75 and \$9.25 per hour, while the highest paid occupations are general and operations managers (\$29.08) and food service managers (\$24.26). Workers who have spent years working in fast food testified that they were still paid at the minimum wage rates, and that they received raises of \$0.75 only when the minimum wage increased by that amount. While fast food workers receive their raises when the minimum wage is increased, those wages have declined when inflation is taken into account by 3.6% while the sector grew 23.3% between 2010 and 2014. Fast food workers at chain restaurants make up 62% of all fast food workers but make 8% less than those at non-chain restaurants.

Because of the extreme part-time nature of these jobs, more fully described below, the weekly wages of fast food workers are very low. With an average workweek of 27.9 hours, at the median wage rate of \$9.03 workers are taking home \$252 per week. But workers reported much smaller paychecks: as little as \$97, \$75, \$100, \$140, \$150, and \$210 per week.

Workers reported the impact of low pay on their health and emotional well-being and reported myriad hardships, including overcrowded living spaces, inadequate and unhealthy food, homelessness, lack of health insurance, heavy debt, inability to cover bills for necessities like medication, heat and lights, lack of sleep, physical and emotional exhaustion, inability to afford clothing for their children or themselves, dependence on public assistance, lack of reliable transportation, inability to afford college, having to drop out of high school, and living in crime-ridden neighborhoods. One worker described rising at 7 a.m. for his first job and returning home

from his second job at 1 or 2 a.m. Another worker was not able to purchase clothes for herself, even underwear or socks, for three years. A mother reported earning under \$200 per week but having to pay \$125 per week to live in a house full of strangers with her infant son, who went without diapers for several days recently because she often has to choose between diapers and food. A worker with asthma testified that he cannot afford his inhaler and was afraid of the prospect of another attack. A father of 3 children recently injured his hand but could not afford to take time off work to recuperate.

Academic experts confirmed the impact of poverty on worker health, reporting that low wages are associated with hypertension, diabetes, heart disease, obesity, chronic stress, and shortened life expectancy, and conversely that increasing the minimum wage has positive implications not only for health but also for educational attainment, child development and behavior, and crime levels.

Several employer representatives agreed that fast food wages are inadequate. The president of the NYS Restaurant Association acknowledged that the issues she heard raised by workers who testified “are real and serious,” acknowledged that “an increase is likely inevitable” and urged the Wage Board to “recommend a modest increase with enough time for employers to plan and adjust to the new cost of labor.” When asked whether the NYS Restaurant Association supports an increase in the minimum wage, she responded that “the Association could support a more gradual increase to the minimum wage phased in over time” but noted that “I can’t speak specifically to 15 dollars.” Similar statements were made by employers themselves, who expressed concerns about levels of wages and were not opposed to some increase in the minimum wage. Among employers who spoke out affirmatively in support of a \$15 per hour

minimum wage, Jeff Furman, Chairman of the Board of Directors of Ben & Jerry's Ice Cream, characterized the inadequacy of wages in fast food as "a moral disgrace."

D. Hours Worked

In addition to low hourly wages, fast food work can be characterized primarily by its minimal work hours and unpredictable schedules. Workers in the state average 27.9 hours of work per week. Worker testimony confirmed that fast food employers offer very part-time and irregular work schedules with little advance notice of the workers' schedules or changes thereto. One worker testified that she works anywhere from 4 hours to almost 40 hours per week; another said she works as little as 5 hours per week and never more than 27; and another from 12 to 35 hours per week. Many reported consistently working just under, or over, 20 hours per week. Workers also reported being called into work only to be sent home early, and not being told their weekly schedule until just days before the workweek was to begin.

While some workers prefer a part-time schedule according to employers, there appear to be few full-time jobs or jobs offering a regular work schedule. The impact of low hours and unpredictable scheduling is profound: paychecks are exceptionally small and inconsistent, and workers cannot take another much-needed job or otherwise plan their personal lives, sometimes missing significant life events. Academic experts noted the part-time nature of fast food work is a significant factor in keeping workers in poverty and dependent on government assistance.

E. Additions to Wages

The Wage Board received no evidence that fast food workers receive tips, bonuses, retirement plans, or other forms of compensation aside from hourly wages. According to the

Berkeley-UIC 2013 study, only 13% of U.S. fast food workers are offered employer-provided health insurance compared to 59% of all workers.

III. Basic Factors Considered by the Board in its Recommendations Concerning Minimum Wage Standards

A. Cost of Living

The Wage Board received testimony and data from the Department of Labor's Division of Research and Statistics, as well as from several academic and policy experts, estimating the amount sufficient to provide adequate maintenance and to protect health of employees (hereinafter "cost of living"), under the relevant statutory standards of Labor Law sections 654 and 655.5(a). The testimony and data received by the Wage Board on cost of living used a range of measures and methodologies that each built upon various budget-based approaches that started with data representing the costs of various budget items, such as food, transportation, housing, health care, and taxes, which were combined into annual budgets for households of various sizes in various regions as of various dates. Those annual amounts were then converted into hourly rates using various assumptions about the number of weekly hours and the number of weeks worked per year.

The resulting figures presented to the Wage Board included annual amounts that ranged from just under \$31,000 to over \$50,000, for different family sizes in different areas of the state. In converting those annual figures to hourly rates, different assumptions about weekly hours worked resulted in hourly rates that ranged from just under \$15 to well over \$25, even for single member households.

Faced with such a wide range of estimates and underlying assumptions and data, the Department of Labor's Research and Statistics Division was tasked with reviewing all of the cost

of living estimates provided to the board, and the underlying assumptions and data, and providing the Wage Board with an hourly cost of living rate for the Wage Board's consideration. The Division provided the Wage Board with a statewide hourly rate of \$15.91 for an employee who works a standard workweek with a half-hour lunch break, as required by the Labor Law, to address the amount sufficient to provide adequate maintenance and to protect health of employees, which is the statutory cost of living factor that defines the ceiling for minimum wage rates recommended by wage boards.

The Wage Board acknowledges that the \$15.91 hourly rate provided by the Division of Research and Statistics is based on some conservative assumptions that explain why that rate is lower than many other rates provided to the Wage Board. For example, while the declared policy of the minimum wage statute that authorizes this Wage Board is to eliminate as rapidly as practicable situations where workers are employed in occupations "at wages insufficient to provide adequate maintenance for themselves and their families," Labor Law § 650, the specific statutory standard that limits the rates that can be recommended by wage boards omits any reference to families, and it is not clear whether that omission was intentional. Labor Law § 655.5(a). Similarly, while the evidence presented to the Wage Board indicates that the average workweek in this industry is 30 hours, or less, the statute expressly authorizes the Wage Board to address situations involving part-time employment by recommending regulations that provide for higher "part-time rates" and even "weekly guarantees." Labor Law § 655.5(b). Against that backdrop, the higher hourly rates that result when part-time hours of 30 or less per week are used to convert annual cost of living figures to hourly rates would become relevant if the Wage Board were recommending higher part-time hourly rates or weekly guarantees.

For the reasons set forth above, the Wage Board finds that the statewide hourly rate \$15.91 provides a reasonable figure, based on conservative data and assumptions, that the Wage Board adopts as the amount sufficient to provide adequate maintenance and to protect the health of employees that this Wage Board and the Commissioner must consider, under Labor Law § 654, which limits the minimum wage rate that this Wage Board can recommend, under Labor Law § 655.5(a).

B. Value of the Work

Workers who testified described jobs that are difficult, fast-paced, and sometimes dangerous. The jobs require a high level of customer service skill and the ability to manage multiple demands and tasks at once. Professor Van Tran of Columbia University submitted written testimony confirming that fast food work requires a tremendous amount of cognitive coordination and balancing of simultaneous demands, and that workers routinely perform a variety of complex tasks often under extreme time pressure and poor working conditions.

The value of the work is also reflected in the profit such work creates for the industry. The Wage Board received testimony from experts, which was not refuted, that the fast food industry is highly profitable and growing. For example, as noted above, the top 14 publicly traded fast food chains in New York State had profits in 2014 of over \$9.3 billion representing a 14.5% increase between 2010 and 2014. Fast food chains paid out \$5.1 billion in dividends and spent another \$5.7 billion in share buybacks. And according to ExecuComp, the average annual CEO compensation in 2013 of the largest publicly-traded fast food companies and the leaders in the quick-service and fast casual submarkets was \$23.8 million.

Accordingly, we find that the value of the work performed by fast food workers, as reflected in the difficulty of the work and the skill required for the jobs, as well as the monetary value such work creates for the industry, warrants a substantial increase in the minimum wage.

C. Wages Paid in the State for Similar Work

The Wage Board received evidence from experts showing that fast food establishments in New York pay the lowest annual average wages within the broader food services sector. While workers in full-service and fast food restaurants perform similar job functions, in New York State full-service workers make on average \$23,418 per year, which is over 50% more than the \$15,514 that fast food workers average per year, according to the Bureau of Labor Statistics.

IV. Other Considerations Affecting the Board's Recommendations

A. Defining the Industry

The Wage Board has given careful consideration to the issue of which employers and employees are appropriate to include in our recommendation. A primary consideration in determining the employers to be covered is ensuring that we capture segments of the fast food industry that are most likely in competition, such as quick service and fast casual restaurants, and snack and beverage establishments. We have also given careful consideration to how smaller chains might be affected by our recommendations. With respect to the classification of workers that should be covered, it is appropriate to include all fast food workers performing functions related to preparing food and drinks, serving customers, and maintaining and protecting the property since all such workers are currently being paid well below what we conclude is an adequate wage. To prevent employers from avoiding paying the minimum wage by

subcontracting fast food work, contracted workers must necessarily be covered by our recommendation.

B. Impact of a Wage Increase on the Economy

There can be little doubt, based on the volume and consistency of testimony from fast food workers and data provided by experts, that wages in this industry are insufficient. A crucial next question the Wage Board has confronted, then, is whether a significant increase in fast food wages could have an adverse economic impact, potentially undermining the positive effect for workers of any wage order issued by the Labor Commissioner.

In fact, the vast majority of economic experts who testified before the Wage Board concluded that the net impact of a wage increase would be positive rather than negative. A series of experts noted the fact that increased wages lead to greater consumer spending, particularly in the low-income communities where fast food workers reside, in turn fueling job growth. Experts also pointed to a large body of empirical research and real-life experience with minimum wage increases demonstrating no significant adverse employment effects from such increases.

This expert testimony negates the concerns raised by some in the business community during the hearings that a wage increase for fast food workers will kill jobs and harm the economy. The primary basis for this contention was the belief that businesses would be forced to lay off workers, cut hours, or significantly raise prices in order to absorb the cost of a wage increase, the latter reducing demand and resulting in lost business and further cuts. But multiple experts testified that even with a substantial wage increase, businesses could cover their increased labor costs with minimal job loss through cost-savings from lower worker turnover, greater revenue from small price increases and normal sales growth.

Experts on the industry also highlighted the significant and growing profits enjoyed by fast food companies, as summarized above, and the enormous compensation packages the companies have provided their CEOs, suggesting that the industry is able to absorb a sizeable increase in worker wages. Though some fast food franchisee owners who testified before the Board spoke of the thin margins in their line of business, experts on franchising pointed to the structural and economic advantages over traditional small businesses enjoyed by franchisees with ties to a large corporation, including that a franchise provides an established product that enjoys widespread branding recognition, giving the franchisee the benefits of a presold customer base, which would ordinarily take years to establish; shared marketing; financing assistance; a developed and tested franchise system for operating and distributing goods; economies of scale; and training and software support. Franchising experts also noted the mechanisms that large corporate franchisors use to incent franchisees to spend money on corporate initiatives, mechanisms that could be used to help a franchisee absorb a wage increase. Similarly, chain restaurants more generally enjoy significant advantages over independent restaurants, such as marketing, brand loyalty, perceived quality, and brand image, leading to higher profits and lower failure rates.

Finally, we cannot ignore the savings to taxpayers that will accrue by increasing the minimum wage as workers become less reliant on public assistance.

The persuasive and thorough analysis of the economists, industry experts and business owners, themselves, who provided testimony to the Wage Board makes clear that the economic benefits of a significant wage increase outweigh the costs. Ultimately, though, no expert or panel can guarantee the complete absence of job reductions resulting from a wage increase, and for this reason we conclude that the wage increase should be phased-in over time and that some

accommodation must be made for small enterprises. As set forth in detail below, we recommend a wage rate of \$15 per hour by the end of 2018. However, while we believe New York City employers can more readily accommodate this schedule, there are reasons to give employers outside of New York City to reach the \$15 dollar standard, until July 2021: (1) that New York City fast food restaurants have faster sales growth than those outside of New York City; and (2) the City has greater private sector employment growth than the rest of the State as well as greater population density and tourism traffic and higher cost of living. Further, to address concerns that new and future chains will have an opportunity to develop the operational and financial resources to absorb the increase, we recommend that \$15 wage rate be applicable only to fast food chains with 30 or more locations nationally, since chains of this size are better equipped to absorb a wage increase due to greater operational and financial resources, and brand recognition. For examples of the type of chains that the Wage Board anticipates may be captured by the recommended threshold and definition, see the Appendix to this report, which lists numerous chains that are located in New York State, ranging from well established worldwide franchises, such as Burger King, to much newer franchises, such as Shake Shack, which started in New York City.

V. Recommendations

Based on the foregoing, the Wage Board makes the following recommendations to the Commissioner of Labor:

1. Minimum Wage Rate

The Wage Board recommends that the minimum wage be raised to \$15 for fast food employees in fast food establishments.

2. Phase-in Schedules

The Wage Board recommends that new \$15 minimum wage rate be phased in to take effect by December 31, 2018, for New York City, and by July 1, 2021, for the rest of the state, on the following schedules.

- For New York City, the minimum wage should be increased to
 - \$10.50 on December 31, 2015,
 - \$12.00 on December 31, 2016,
 - \$13.50 on December 31, 2017, and
 - \$15.00 on December 31, 2018.
- For the rest of the state, the minimum wage should be increased to
 - \$9.75 on December 31, 2015,
 - \$10.75 on December 31, 2016,
 - \$11.75 on December 31, 2017,
 - \$12.75 on December 31, 2018,
 - \$13.75 on December 31, 2019, \$14.50 on December 31, 2020, and
 - \$15.00 on July 1, 2021.

3. Definitions

The Wage Board recommends that the scope of covered employees and establishments be determined according to the following definitions:

“Fast Food Employee” shall mean any person employed or permitted to work at or for a Fast Food Establishment by any employer where such person’s job duties include at least

one of the following: customer service, cooking, food or drink preparation, delivery, security, stocking supplies or equipment, cleaning, or routine maintenance.

“Fast Food Establishment” shall mean any establishment in the state of New York: (a) which has as its primary purpose serving food or drink items; (b) where patrons order or select items and pay before eating and such items may be consumed on the premises, taken out, or delivered to the customer’s location; (c) which offers limited service; (d) which is part of a chain; and (e) which is one of thirty (30) or more establishments nationally, including: (i) an integrated enterprise which owns or operates thirty (30) or more such establishments in the aggregate nationally; or (ii) an establishment operated pursuant to a Franchise where the Franchisor and the Franchisee(s) of such Franchisor owns or operate thirty (30) or more such establishments in the aggregate nationally. “Fast Food Establishment” shall include such establishments located within non-Fast Food Establishments.

“Chain” shall mean a set of establishments which share a common brand, or which are characterized by standardized options for décor, marketing, packaging, products, and services.

“Franchisee” shall mean a person or entity to whom a franchise is granted.

“Franchisor” shall mean a person or entity who grants a franchise to another person or entity.

“Franchise” shall have the same definition as set forth in General Business Law Section 681.

“Integrated enterprise” shall mean two or more entities sufficiently integrated so as to be considered a single employer as determined by application of the following factors: (i) degree of interrelation between the operations of multiple entities; (ii) degree to which the entities share common management; (iii) centralized control of labor relations; and (iv) degree of common ownership or financial control.

Respectfully submitted,



Honorable Byron W. Brown
Mayor
City of Buffalo

Michael Fishman,
Secretary-Treasurer
Service Employees
International Union

Kevin P. Ryan
Vice Chair
Partnership for New York City

Dated: July 31, 2015
Buffalo, NY

Dated: July ____, 2015
Washington, DC

Dated: July ____, 2015
New York, NY

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Dated: July ____, 2015
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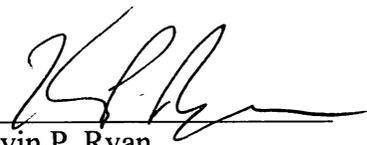
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Service Employees
International Union



Kevin P. Ryan
Vice Chair
Partnership for New York City

Dated: July ____, 2015
Buffalo, NY

Dated: July ____, 2015
Washington, DC

Dated: July 27, 2015
New York, NY

APPENDIX

New York State Fast Food Wage Board Fast Food Chains in New York State With 30 or More Locations Nationwide as of 2014

FOR INFORMATIONAL PURPOSES ONLY. THIS IS NOT AN EXCLUSIVE OR FINAL LIST OF FAST FOOD CHAINS THAT WILL BE SUBJECT TO THE MINIMUM WAGE RATE INCREASES RECOMMENDED BY THE WAGE BOARD

This list is provided to inform the public and others by illustrating the range and scope of establishments that the Wage Board reasonably anticipated may satisfy the proposed threshold of 30 establishments nationwide, based on data submitted to the Wage Board. The fact that a particular chain does, or does not, appear on this list should not be dispositive of whether that chain may meet the proposed threshold of 30 locations nationwide at the time that the proposed minimum wage increase takes effect.

-I- 16 Handles (dessert)	-C- California Pizza Kitchen (pizza) Camille's Sidewalk Café (other eateries) Captain D's Seafood Restaurant (seafood) Carvel (dessert) Charley's (sandwiches) Checkers Drive-In Restaurants (burgers) Chick-fil-A (chicken) Chipotle Mexican Grill (Mexican) Chuck E. Cheese's (pizza) Church's Chicken (chicken) CiCi's Pizza (pizza) Cinnabon (dessert) Cold Stone Creamery (dessert) Cookies by Design (snack & beverage) Corner Bakery Cafe (eateries) Cosi (other eateries) Country Kitchen (other eateries) Crown Fried Chicken (chicken)	Dippin Dots (dessert) Domino's Pizza (pizza) Dunkin' Donuts (snack & beverage)
-A- A&W Restaurants (burgers) Amato's (pizza) Arby's (sandwiches/burgers) Argo Tea (snack & beverage) Atlanta Bread (sandwiches) Au Bon Pain (other eateries) Auntie Anne's (snack & beverage)	-D- Dairy Queen (burgers & dessert) Daylight Donuts (snack & beverage) Dickey's Barbecue Pit (other eateries)	-E- Einstein Brothers (other eateries) Elevation Burger (burgers)
-B- Baja Fresh (Mexican) Baskin Robbins (dessert) Ben & Jerry's (dessert) Bertucci's (pizza) Blimpie (sandwiches) Boston Market (other eateries) Bruegger's (other eateries) Bruster's Ice Cream (dessert) Buffalo Wild Wings (eateries) Burger King (burgers) BurgerFi (burgers)		-F- Fatburger (burgers) Firehouse Subs (sandwiches) Five Guys (burgers) Fox's Pizza Den (pizza) Freshens (sandwiches) FroyoWorld (dessert)
		-G- Gloria Jean's Gourmet Coffees (coffee) Godfather's Pizza (pizza) Golden Krust Carib Bakery/Grill (other eateries) Great American Cookies (dessert) Great Harvest Bread Co. (other eateries)
		-H- Haagen Dazs (dessert) Hungry Howie's Pizza/Subs (pizza)

-J-

Jamba Juice (snack & beverage)
 Jersey Mike's (sandwiches)
 Jet's Pizza (pizza)
 Jimmy John's (sandwiches)
 Johnny Rockets (burgers)

-K-

KFC (chicken)
 Krispy Kreme Doughnuts (snack & beverage)

-L-

L&L Hawaiian Barbecue (other eateries)
 Little Caesars (pizza)
 Long John Silver's (seafood)

-M-

Maggie Moo's Ice Cream/Treatery (dessert)
 Manchu Wok (Asian)
 Manhattan Bagel (sandwiches)
 Marble Slab Creamery (dessert)
 Marco's Pizza (pizza)
 McDonald's (burgers)
 Menchie's (dessert)
 Moe's Southwest Grill (Mexican)
 Mrs. Fields Gifts (snack & beverage)
 Muscle Maker Grill (other eateries)

-N-

Nathan's Famous (other eateries)
 Nestlé Café (dessert)
 NrGize Lifestyle Cafe (snack & beverage)

-O-

Old Country Buffet (other eateries)
 Orange Leaf Frozen Yogurt (dessert)

-P-

Panda Express (Asian)
 Panera Bread (sandwiches)
 Papa John's (pizza)
 Peachwave Yogurt (dessert)
 Philly Pretzel Factory (snack & beverage)
 Pinkberry (dessert)
 Pita Pit (sandwiches)
 Pizza Hut (pizza)
 Planet Smoothie (snack & beverage)
 Pollo Campero (chicken)
 Popeyes Louisiana Kitchen (chicken)
 Potbelly Sandwich Works (sandwiches)
 Pretzelmaker (snack & beverage)

-Q-

Qdoba Mexican Grill (Mexican)
 Quiznos (sandwiches)

-R-

Red Mango (dessert)
 Rita's Italian Ice (dessert)
 Robeks (snack & beverage)
 Roly Poly (sandwiches)
 Roy Rogers (burgers)

-S-

Saladworks (other eateries)
 Salsarita's Fresh Cantina (Mexican)
 Sarku Japan (Asian)
 Sbarro (pizza)
 Shake Shack (burgers)
 Smashburger (burgers)
 Smoothie Factory (snack & beverage)
 Smoothie King (snack & beverage)
 Sonic (burgers)
 Starbucks US (coffee)
 Steak 'n Shake (burgers)
 SUBWAY (sandwiches)
 Surf City Squeeze (snack & beverage)
 sweetFrog Premium Frozen Yogurt (dessert)

-T-

Taco Bell (Mexican)
 TACO DEL MAR (Mexican)
 Taco John's (Mexican)
 TCBY (dessert)
 The Coffee Bean & Tea Leaf (coffee)
 The Counter (burgers)
 Tim Hortons (coffee)
 Tropical Smoothie Café (snack & beverage)
 Tutti Frutti (dessert)

-U-

Uno Chicago Grill (pizza)

-V-

Villa Enterprises (other eateries)

-W-

Wahoo's Fish Taco (Mexican)
 Wendy's (burgers)
 Which Wich (sandwiches)
 White Castle (burgers)
 Wing Zone (chicken)
 Wingstop (chicken)

-Y-

Yogen Früz (dessert)
 Yogurtland (dessert)

-Z-

Zoup! (other eateries)