



ISSUE BRIEF

Creation of a Super Wage/Tip Credit

Our Position: The MRA and MLA support legislation to establish a super wage threshold for tipped employees to create a tip credit.

Background: Minnesota is one of only seven states in the country that does not recognize tips as wages. All of our neighbors and the federal government recognize tips as wages. Due to the lack of recognition of tips as wages in Minnesota, less money is available for wages intended for chefs, cooks and kitchen staff.

In 2009, the MRA and MLA pursued passage of a Super Wage proposal that would have created a level playing field for Minnesota restaurant employees by creating a \$12 per hour super wage for tipped employees. We support legislation that closely follows our 2009 Super Wage proposal or similar language that would establish a tip credit. Under either proposal, no tipped employee will ever earn less than the minimum wage when you factor in their tips.

Public Policy Landscape

1. **43 States** – The federal government and 43 states currently allow for a server wage. Most states allow tipped employees to be paid \$2.13/hour to \$4.50/hour, substantially less than the state of Minnesota requires, in recognition of servers' significant tip earnings. This puts Minnesota restaurants at a huge competitive disadvantage with all of our neighboring states.
2. **Tips ARE Wages** – One of the injustices of present law is that even though customers give tips to servers, employers must still pay FICA (social security tax) and unemployment compensation taxes on these gratuities. In fact, tips are considered wages by Social Security (FICA), Federal Department of Labor, Federal Unemployment Taxes (FUTA), Internal Revenue Service, Minnesota Workers' Compensation, Minnesota Unemployment Compensation (SUTA) and the Minnesota Department of Revenue. The **only** instance in which tips are not considered wages by the state is when determining minimum wage compensation.
3. **Wage Discrepancies** – The discrepancy between tipped and non-tipped employees in a restaurant causes significant friction among staff. When the state mandates a wage increase, already well-compensated servers get an increase in pay. Back-of-the-house employees, on the other hand, will not receive increases because they are already earning more than the minimum wage (on average, above \$8-\$10 per hour) and any of the restaurant's additional payroll dollars must now go to pay the tipped employees.
4. **Reluctant to Expand** – Many restaurants have been reluctant to enter and expand in the Minnesota market over the last several years, and many established independents have closed. This is due in large part to labor costs in Minnesota that far exceed those in other states.