



**Opening Statement of Rep. Kevin Kiley (R-CA), Chairman
Subcommittee on Workforce Protections
Hearing: “Examining the Biden-Harris Attacks on Tipped Workers”
September 18, 2024**

(As prepared for delivery)

Today, the Committee convenes to examine an issue that affects millions of hardworking Americans, especially those in our restaurants, bars, and hotels—tipped workers. These workers are the face of the American economy, linking our citizens with the goods and services on which their lives depend. Their livelihoods depend not only on the tips they earn but also on the policies that govern their pay. Unfortunately, a misguided Biden-Harris rule is putting their jobs and wages at risk.

Under the *Fair Labor Standards Act*, there’s a system in place that’s been around for decades called the tip credit. It allows employers to count a portion of an employee’s tips toward the minimum wage. This system has worked for years. It allows tipped employees to be paid a base wage that’s less than the federal standard, as long as their combined earnings, with tips, exceed the federal minimum wage.

It’s common sense. And it helps the workers, because most tipped workers earn far more than the federal minimum wage. A recent study by the National Restaurant Association found that the median tipped worker earns \$27 an hour. This isn’t an anomaly; it’s the norm. The current system gives tipped workers the opportunity to thrive. And it doesn’t just help them—it helps the restaurants and small businesses that employ them.

Unfortunately, across the country we’re seeing anti-worker policies that phase out the tip credit altogether. In Seattle, for instance, raising the base wage for tipped employees led to job losses. One Seattle-based server said, “We need to have some balance here, because right now, we’re losing jobs, we’re losing hours, we’re losing

tipped income, and it's not good." I'm grateful to have that worker here to testify this morning.

There are over four million Americans working in tipped occupations, and they're telling us very clearly: don't take away the tip credit. In a recent survey, 90 percent of tipped employees said they prefer the current system. And 87 percent are afraid that if their employers are forced to pay a higher base wage without counting tips, their earnings will go down. These workers are telling us the economic reality of their workplaces, and we should listen to them.

Sadly, the Biden-Harris administration hasn't listened. The Department of Labor's 2021 tip rule restricts the tip credit drastically. What's more, if an employee spends just 30 minutes on duties that don't produce tips, the employer can no longer claim the tip credit at all. It's essentially a requirement on small businesses to track their employees' every movement minute by minute. It's burdensome, invasive, and altogether out of touch with the realities of working life.

Fortunately, just last month, we saw a major victory for common sense. The U.S. Court of Appeals for the Fifth Circuit struck down the 2021 tip rule, calling it contrary to the *Fair Labor Standards Act*. This ruling was a win for both workers and small businesses, but the fight is far from over.

This Committee is dedicated to supporting workers, small businesses, and the customers who rely on them. The tip credit system benefits all three. It provides flexibility for businesses, ensures tipped workers earn more, and helps maintain a thriving service industry.