

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 15**

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**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

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ADOPTED JANUARY 24, 2019

**Sponsored by:**

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**Senator STEPHEN M. SWEENEY**

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**SYNOPSIS**

Raises, over time, hourly minimum wage to \$15.00.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on January 28, 2019, with amendments.

(Sponsorship Updated As Of: 2/1/2019)

1 **AN ACT** raising the minimum wage, amending and supplementing  
2 P.L.1966, c.113, and supplementing P.L.1945, c.162 (C.54:10A-  
3 1 et seq.) and Title 54A of the New Jersey Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to  
9 read as follows:

10 2. As used in this act:

11 (a) "Commissioner" means the Commissioner of Labor and  
12 Workforce Development.

13 (b) "Director" means the director in charge of the bureau  
14 referred to in section 3 of this act.

15 (c) "Wage board" means a board created as provided in section  
16 10 of this act.

17 (d) "Wages" means any moneys due an employee from an  
18 employer for services rendered or made available by the employee  
19 to the employer as a result of their employment relationship  
20 including commissions, bonus and piecework compensation and  
21 including **[any gratuities received by an employee for services**  
22 **rendered for an employer or a customer of an employer and]** the  
23 fair value of any food or lodgings supplied by an employer to an  
24 employee, and, until December 31, 2018, "wages" includes any  
25 gratuities received by an employee for services rendered for an  
26 employer or a customer of an employer. The commissioner may, by  
27 regulation, establish the average value of gratuities received by an  
28 employee in any occupation and the fair value of food and lodging  
29 provided to employees in any occupation, which average values  
30 shall be acceptable for the purposes of determining compliance with  
31 this act in the absence of evidence of the actual value of such items.

32 (e) "Regular hourly wage" means the amount that an employee  
33 is regularly paid for each hour of work as determined by dividing  
34 the total hours of work during the week into the employee's total  
35 earnings for the week, exclusive of overtime premium pay.

36 (f) "Employ" includes to suffer or to permit to work.

37 (g) "Employer" includes any individual, partnership,  
38 association, corporation, and the State and any county,  
39 municipality, or school district in the State, or any agency,  
40 authority, department, bureau, or instrumentality thereof, or any  
41 person or group of persons acting directly or indirectly in the  
42 interest of an employer in relation to an employee.

43 (h) "Employee" includes any individual employed by an  
44 employer.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Assembly AAP committee amendments adopted January 28, 2019.

- 1 (i) "Occupation" means any occupation, service, trade,  
2 business, industry or branch or group of industries or employment  
3 or class of employment in which employees are gainfully employed.
- 4 (j) "Minimum fair wage order" means a wage order  
5 promulgated pursuant to this act.
- 6 (k) "Fair wage" means a wage fairly and reasonably  
7 commensurate with the value of the service or class of service  
8 rendered and sufficient to meet the minimum cost of living  
9 necessary for health.
- 10 (l) "Oppressive and unreasonable wage" means a wage which is  
11 both less than the fair and reasonable value of the service rendered  
12 and less than sufficient to meet the minimum cost of living  
13 necessary for health.
- 14 (m) "Limousine" means a motor vehicle used in the business of  
15 carrying passengers for hire to provide prearranged passenger  
16 transportation at a premium fare on a dedicated, nonscheduled,  
17 charter basis that is not conducted on a regular route and with a  
18 seating capacity in no event of more than 14 passengers, not  
19 including the driver, provided, that such a motor vehicle shall not  
20 have a seating capacity in excess of four passengers, not including  
21 the driver, beyond the maximum passenger seating capacity of the  
22 vehicle, not including the driver, at the time of manufacture.  
23 "Limousine" shall not include taxicabs, hotel or airport shuttles and  
24 buses, buses employed solely in transporting school children or  
25 teachers to and from school, vehicles owned and operated directly  
26 or indirectly by businesses engaged in the practice of mortuary  
27 science when those vehicles are used exclusively for providing  
28 transportation related to the provision of funeral services or vehicles  
29 owned and operated without charge or remuneration by a business  
30 entity for its own purposes.
- 31 (n) "Seasonal employment" means employment during a year by  
32 an employer that is a seasonal employer<sup>1</sup>,<sup>1</sup> or<sup>1</sup> employment by a<sup>1</sup>  
33 non-profit or government entity of an individual who is not  
34 employed by that employer outside of the period of that year  
35 commencing on May 1 and ending September 30,<sup>1</sup> or employment  
36 by a governmental entity in a recreational program or service during  
37 the period commencing on May 1 and ending September 30,<sup>1</sup>  
38 except that "seasonal employment" does not include employment of  
39 employees engaged<sup>1</sup> to labor on a farm<sup>1</sup> on<sup>1</sup> either<sup>1</sup> a piece-rate or  
40 regular hourly rate basis<sup>1</sup> [to labor on a farm]<sup>1</sup>.
- 41 (o) "Seasonal employer" means<sup>1</sup> an employer who exclusively  
42 provides its services in a continuous period of not more than ten  
43 weeks during the months of June, July, August, and September, or<sup>1</sup>  
44 an employer for which, during the immediately previous calendar  
45 year, not less than two thirds of the employer's gross receipts were  
46 received in a continuous period of not more than sixteen weeks<sup>1</sup> or  
47 for which not less than 75 percent of the wages paid by the

1 employer during the immediately preceding year were paid for work  
2 performed during a single calendar quarter<sup>1</sup>.

3 (p) "Small employer" means any employer who employed less  
4 than six employees for every working day during each of a majority  
5 of the calendar workweeks in the current calendar year and less than  
6 six employees for every working day during not less than 48  
7 calendar workweeks in the preceding calendar year, except that, if  
8 the employer was newly established during the preceding calendar  
9 year, the employer shall be regarded as a "small employer" if the  
10 employer employed less than six employees for every working day  
11 during all of the weeks of that year, and during a majority of the  
12 calendar workweeks in the current calendar year, and, if the  
13 employer is newly established during the current calendar year, the  
14 employer shall be regarded as a "small employer" if the employer  
15 employed less than six employees for every working day during a  
16 majority of the calendar workweeks in the current calendar year.

17 (cf: P.L.2001, c.416, s.2)

18

19 2. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to  
20 read as follows:

21 5. **【Every】** a. Except as provided in subsections c., d., e. and  
22 g. of this section, each employer shall pay to each of his employees  
23 wages at a rate of not less than 【\$5.05 per hour as of April 1, 1992  
24 and, after January 1, 1999 the federal minimum hourly wage rate set  
25 by section 6(a)(1) of the federal "Fair Labor Standards Act of 1938"  
26 (29 U.S.C. s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour,  
27 and as of October 1, 2006, \$7.15 per hour for 40 hours of working  
28 time in any week and 1 1/2 times such employee's regular hourly  
29 wage for each hour of working time in excess of 40 hours in any  
30 week, except this overtime rate shall not include any individual  
31 employed in a bona fide executive, administrative, or professional  
32 capacity or, if】 \$8.85 per hour as of January 1, 2019 and, on  
33 January 1 of 2020 and January 1 of each subsequent year, the  
34 minimum wage shall be increased by any increase in the consumer  
35 price index for all urban wage earners and clerical workers (CPI-W)  
36 as calculated by the federal government for the 12 months prior to  
37 the September 30 preceding that January 1, except that any of the  
38 following rates shall apply if it exceeds the rate determined in  
39 accordance with the applicable increase in the CPI-W for the  
40 indicated year: on July 1, 2019, the minimum wage shall be \$10.00  
41 per hour; on January 1, 2020, the minimum wage shall be \$11.00  
42 per hour; and on January 1 of each year from 2021 to 2024,  
43 inclusive, the minimum wage shall be increased from the rate of the  
44 preceding year by \$1.00 per hour. If the federal minimum hourly  
45 wage rate set by section 6 of the federal "Fair Labor Standards Act  
46 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
47 level higher than the State minimum wage rate set by this  
48 subsection, then the State minimum wage rate shall be increased to

1 the level of the federal minimum wage rate and subsequent  
2 increases based on increases in the CPI-W pursuant to this section  
3 shall be applied to the higher minimum wage rate. If an applicable  
4 wage order has been issued by the commissioner under section 17  
5 (C.34:11-56a16) of this act, the employer shall also pay not less  
6 than the wages prescribed in said order. The wage rates fixed in  
7 this section shall not be applicable to part-time employees primarily  
8 engaged in the care and tending of children in the home of the  
9 employer, to persons under the age of 18 not possessing a special  
10 vocational school graduate permit issued pursuant to section 15 of  
11 P.L.1940, c.153 (C.34:2-21.15), or to persons employed as  
12 salesmen of motor vehicles, or to persons employed as outside  
13 salesmen as such terms shall be defined and delimited in regulations  
14 adopted by the commissioner, or to persons employed in a volunteer  
15 capacity and receiving only incidental benefits at a county or other  
16 agricultural fair by a nonprofit or religious corporation or a  
17 nonprofit or religious association which conducts or participates in  
18 that fair.

19 **b. [The provisions of this section for the payment to an]**

20 **(1) An employer shall also pay each employee [of] not less than**  
21 **1 1/2 times such employee's regular hourly rate for each hour of**  
22 **working time in excess of 40 hours in any week, except that this**  
23 **overtime rate shall not apply; to any individual employed in a bona**  
24 **fide executive, administrative, or professional capacity; or to**  
25 **employees engaged to labor on a farm or employed in a hotel; or to**  
26 **an employee of a common carrier of passengers by motor bus; or to**  
27 **a limousine driver who is an employee of an employer engaged in**  
28 **the business of operating limousines; or to employees engaged in**  
29 **labor relative to the raising or care of livestock.**

30 **(2) Employees engaged on a piece-rate or regular hourly rate**  
31 **basis to labor on a farm shall be paid for each day worked not less**  
32 **than the applicable minimum hourly wage rate multiplied by the**  
33 **total number of hours worked.**

34 **(3) Full-time students may be employed by the college or**  
35 **university at which they are enrolled at not less than 85% of the**  
36 **effective applicable minimum wage rate.**

37 **c. Employees of a small employer, and employees who are**  
38 **engaged in seasonal employment, except for employees who**  
39 **customarily and regularly receive gratuities or tips who shall be**  
40 **subject to the provisions of subsections a. and d. of this section,**  
41 **shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1**  
42 **of 2020 and January 1 of each subsequent year, that minimum wage**  
43 **rate shall be increased by any increase in the consumer price index**  
44 **for all urban wage earners and clerical workers (CPI-W) as**  
45 **calculated by the federal government for the 12 months prior to the**  
46 **September 30 preceding that January 1, except that any of the**  
47 **following rates shall apply if it exceeds the rate determined in**  
48 **accordance with the applicable increase in the CPI-W for the**

1 indicated year: on January 1, 2020, the minimum wage shall be  
2 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,  
3 inclusive, the minimum wage shall be increased from the rate of the  
4 preceding year by eighty cents per hour, and, in 2026, the minimum  
5 wage shall be increased from the rate of the preceding year by  
6 seventy cents per hour, and, in each year from 2027 to 2028  
7 inclusive, the minimum wage for employees subject to this  
8 subsection c. shall be increased by the same amount as the increase  
9 for employees subject to subsection a. of this section based on CPI-  
10 W increases, plus one half of the difference between \$15.00 per  
11 hour and the minimum wage in effect in 2026 for employees  
12 pursuant to subsection a. of this section, so that, by 2028, the  
13 minimum wage for employees subject to this subsection shall be the  
14 same as the minimum wage in effect for employees subject to  
15 subsection a. of this section. If the federal minimum hourly wage  
16 rate set by section 6 of the federal "Fair Labor Standards Act of  
17 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
18 level higher than the State minimum wage rate set by this  
19 subsection, then the State minimum wage rate shall be increased to  
20 the level of the federal minimum wage rate and subsequent  
21 increases based on increases in the CPI-W pursuant to this  
22 subsection shall be applied to the higher minimum wage rate.

23 d. Employees engaged on a piece-rate or regular hourly rate  
24 basis to labor on a farm shall be paid \$8.85 per hour as of January  
25 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent  
26 year, that minimum wage rate shall be increased by any increase in  
27 the consumer price index for all urban wage earners and clerical  
28 workers (CPI-W) as calculated by the federal government for the 12  
29 months prior to the September 30 preceding that January 1, except  
30 that any of the following rates shall apply if it exceeds the rate  
31 determined in accordance with the applicable increase in the CPI-W  
32 for the indicated year:

33 (1) on January 1, 2020, the minimum wage shall be \$10.30 per  
34 hour; on January 1, 2022, the minimum wage shall be \$10.90 per  
35 hour; and on January 1 of each year from 2023 to 2024, inclusive,  
36 the minimum wage shall be increased from the rate of the preceding  
37 year by eighty cents per hour; and

38 (2) subject to the provisions of paragraph (3) of this subsection  
39 d., minimum wage rates shall be increased as follows: on January 1  
40 of 2025, the minimum wage shall be increased to \$13.40, and on  
41 January 1 of each year from 2026 to 2027, inclusive, the minimum  
42 wage shall be increased from the rate of the preceding year by  
43 eighty cents per hour, and, in each year from 2028 to 2030  
44 inclusive, the minimum wage for employees subject to this  
45 subsection d. shall be increased during that year by the same  
46 amount as the increase in that year for employees subject to  
47 subsection a. of this section based on CPI-W increases, plus one  
48 third of the difference between \$15.00 per hour and the minimum

1 wage in effect in 2027 for employees pursuant to subsection a. of  
2 this section, so that, by 2030, the minimum wage for employees  
3 subject to this subsection shall be the same as the minimum wage in  
4 effect for employees subject to subsection a. of this section.

5 (3) Not later than March 31, 2024, the commissioner and the  
6 Secretary of Agriculture shall review the report issued by the  
7 commissioner pursuant to subsection b. of section 4 of P.L. \_\_\_\_\_,  
8 c. (C. \_\_\_\_\_)(pending before the Legislature as this bill) and shall  
9 consider any information provided by the secretary regarding the  
10 impact on farm employers and the viability of the State's  
11 agricultural industry of the increases of the minimum wage made  
12 pursuant to paragraph (1) of this subsection, and the potential  
13 impact of the increases which would be set by paragraph (2) of this  
14 subsection, including comparisons with the wage rates in the  
15 agricultural industries in other states, and shall  
16 recommend: approval of the increases set forth in paragraph (2) of  
17 this subsection; disapproval of the increases set forth in paragraph  
18 (2) of this subsection; or an alternative manner of changing the  
19 minimum wage after 2024 for employees engaged on a piece-rate or  
20 regular hourly rate basis to labor on a farm. In contemplation of the  
21 possibility that the commissioner and the secretary are unable to  
22 agree on the recommendation required by this paragraph, by  
23 December 31, 2021, the Governor shall appoint a public member  
24 subject to advice and consent by the Senate, who will serve as a tie-  
25 breaking member if needed. The increases set forth in paragraph (2)  
26 of this subsection shall take effect unless there is a recommendation  
27 pursuant to this paragraph to disapprove the increases or for an  
28 alternative manner of changing the minimum wage after 2024 for  
29 employees engaged on a piece-rate or regular hourly rate basis to  
30 labor on a farm and the Legislature, not later than June 30, 2024,  
31 enacts a concurrent resolution approving the implementation of that  
32 recommendation. Beginning in 2024, the commissioner, secretary,  
33 and public member shall meet biennially to make either a one or  
34 two year recommendation to the Legislature for implementation by  
35 way of concurrent resolution.

36 (4) If the federal minimum hourly wage rate set by section 6 of  
37 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or  
38 a successor federal law, is raised to a level higher than the State  
39 minimum wage rate set by this subsection, then the State minimum  
40 wage rate shall be increased to the level of the federal minimum  
41 wage rate and subsequent increases based on increases in the CPI-  
42 W pursuant to this subsection shall be applied to the higher  
43 minimum wage rate.

44 e. With respect to an employee who customarily and regularly  
45 receives gratuities or tips, every employer is entitled to a credit for  
46 the gratuities or tips received by the employee against the hourly  
47 wage rate that would otherwise be paid to the employee pursuant to  
48 subsection a. of this section of the following amounts: after

1 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after  
2 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during  
3 calendar years 2020, 2021 and 2022, \$7.87 per hour; during  
4 calendar year 2023, \$8.87 per hour; and during calendar year 2024  
5 and subsequent calendar years, \$9.87 per hour.

6 f. Notwithstanding the provisions of this section to the  
7 contrary, every trucking industry employer shall pay to all drivers,  
8 helpers, loaders and mechanics for whom the Secretary of  
9 Transportation may prescribe maximum hours of work for the safe  
10 operation of vehicles, pursuant to section 31502(b) of the federal  
11 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less  
12 than 1 1/2 times the minimum wage required pursuant to this  
13 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking  
14 industry shall be paid no less than the minimum wage rate as  
15 provided in this section and N.J.A.C. 12:56-3.1. As used in this  
16 section, "trucking industry employer" means any business or  
17 establishment primarily operating for the purpose of conveying  
18 property from one place to another by road or highway, including  
19 the storage and warehousing of goods and property. Such an  
20 employer shall also be subject to the jurisdiction of the Secretary of  
21 Transportation pursuant to the federal Motor Carrier Act, 49  
22 U.S.C.s.31501 et seq., whose employees are exempt under section  
23 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29  
24 U.S.C. s.213(b)(1), which provides an exemption to employees  
25 regulated by section 207 of the federal "Fair Labor Standards Act of  
26 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49  
27 U.S.C. s.501 et al.

28 g. Commencing on January 1, 2020, a training wage of not less  
29 than 90 percent of the minimum wage rate otherwise set pursuant to  
30 subsection a. of this section may be paid to an employee who is  
31 enrolled in an established employer on-the-job or other training  
32 program which meets standards set by regulations adopted by the  
33 commissioner. The period during which an employer may pay the  
34 training wage to the employee shall be the first 120 hours of work  
35 after hiring the employee in employment in an occupation in which  
36 the employee has no previous similar or related experience. An  
37 employer shall not utilize any employee paid the training wage in a  
38 manner which causes, induces, encourages or assists any  
39 displacement or partial displacement of any currently employed  
40 worker, including any previous recipient of the training wage, by  
41 reducing hours of a currently employed worker, replacing a current  
42 or laid off employee with a trainee, or by relocating operations  
43 resulting in a loss of employment at a previous workplace, or in a  
44 manner which replaces, supplants, competes with or duplicates any  
45 approved apprenticeship program. An employer who pays an  
46 employee a training wage shall make a good faith effort to continue  
47 to employ the employee after the period of the training wage  
48 expires and shall not hire the employee at the training wage unless

1 there is a reasonable expectation that there will be regular  
2 employment, paying at or above the effective minimum wage, for  
3 the trainee upon the successful completion of the period of the  
4 training wage. If the commissioner determines that an employer  
5 has made repeated, knowing violations of the provisions of this  
6 subsection regarding the payment of a training wage, the  
7 commissioner shall suspend the employer's right to pay a training  
8 wage for a period set pursuant to regulations adopted by the  
9 commissioner, but not less than three years.

10 h. The provisions of this section shall not be construed as  
11 prohibiting any political subdivision of the State from adopting an  
12 ordinance, resolution, regulation or rule, or entering into any  
13 agreement, establishing any standard for vendors, contractors and  
14 subcontractors of the subdivision regarding wage rates or overtime  
15 compensation which is higher than the standards provided for in  
16 this section, and no provision of any other State or federal law  
17 establishing a minimum standard regarding wages or other terms  
18 and conditions of employment shall be construed as preventing a  
19 political subdivision of the State from adopting an ordinance,  
20 resolution, regulation or rule, or entering into any agreement,  
21 establishing a standard for vendors, contractors and subcontractors  
22 of the subdivision which is higher than the State or federal law or  
23 which otherwise provides greater protections or rights to employees  
24 of the vendors, contractors and subcontractors of the subdivision,  
25 unless the State or federal law expressly prohibits the subdivision  
26 from adopting the ordinance, resolution, regulation or rule, or  
27 entering into the agreement.

28 (cf: P.L.2005, c.70, s.1)

29

30 3. (New section) a. There is established, in but not of the  
31 Department of Labor and Workforce Development, the "Task Force  
32 on Wages and State Benefits." The task force shall consist of 11  
33 members, including the Commissioners of Health, Human Services,  
34 Education, Community Affairs, and Labor and Workforce  
35 Development, and the State Treasurer, or their designees, all who  
36 shall serve ex officio, and five public members appointed by the  
37 Governor with the advice and consent of the Senate as follows: one  
38 person nominated by an organization which represents the interests  
39 of the business community in this State, one person nominated by  
40 the New Jersey State AFL-CIO, two persons nominated by  
41 organizations representing the interests of low-income individuals,  
42 and one person representing the interests of other disadvantaged  
43 individuals who rely on services and benefits provided or  
44 administered by the State or its instrumentalities. Public members  
45 shall be appointed for four-year terms and may be re-appointed for  
46 any number of terms. Any public member of the task force may be  
47 removed from office by the Governor, for cause, upon notice and  
48 opportunity to be heard. Vacancies shall be filled in the same

1 manner as the original appointment for the balance of the unexpired  
2 term. A member shall continue to serve upon the expiration of the  
3 member's term until a successor is appointed and qualified, unless  
4 the member is removed by the Governor.

5 b. Action may be taken by the task force by an affirmative vote  
6 of a majority of its members and a majority of the task force shall  
7 constitute a quorum for the transaction of any business, for the  
8 performance of any duty, or for the exercise of any power of the  
9 task force. Members of the task force shall serve without  
10 compensation, but may be reimbursed for the actual and necessary  
11 expenses incurred in the performance of their duties as members of  
12 the task force within the limits of funds appropriated or otherwise  
13 made available for that purpose.

14 c. The purpose of the task force is to evaluate how changes in  
15 required minimum wage levels pursuant to by P.L. , c. (C. )  
16 (pending before the Legislature as this bill) may affect the  
17 eligibility of low-income individuals, and other disadvantaged  
18 individuals, for a variety of services and benefits provided or  
19 administered by the State or its instrumentalities, including, but not  
20 limited to, health, human service, childcare, education, housing and  
21 tax benefits, and how the combination of changes in minimum wage  
22 and eligibility standards may impact the living standards of the  
23 individuals and their families. The task force shall produce annual  
24 reports of its findings, which shall include any recommendations  
25 the task force deems appropriate for adjustments in eligibility  
26 standards for the benefits, changes in benefit subsidy rates, and  
27 other relevant reforms, to ensure that the combination of minimum  
28 wage increases and State services and benefits are coordinated  
29 effectively so as to further advance the overall goal of raising the  
30 living standards of working families.

31 d. In furtherance of its evaluation, the task force may hold  
32 public meetings or hearings within the State and call to its  
33 assistance and avail itself of the services of the employees of any  
34 other State department, board, or agency which the task force  
35 determines possesses relevant data, analytical and professional  
36 expertise or other resources which may assist the task force in  
37 discharging its duties under this section. Each department, board,  
38 or agency of this State is hereby directed, to the extent not  
39 inconsistent with law, to cooperate fully with the task force and to  
40 furnish such information and assistance as is necessary to  
41 accomplish the purposes of this section.

42 e. The task force shall issue its first annual report to the  
43 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
44 19.1), to the Legislature not later than September 30, 2019, and  
45 make the report available to the public by means including the  
46 posting of the report on the web sites of all of the State departments  
47 represented on the task force. Each subsequent annual report shall  
48 be issued and made available to the public not later than September

1 30 of the respective year and shall include a review of any  
2 administrative and legislative actions taken in response to  
3 recommendations of previous reports of the task force, together  
4 with an evaluation of the effectiveness of the actions in facilitating  
5 the overall goal of raising the living standards of working families,  
6 and any further recommendation deemed appropriate by the task  
7 force.

8  
9 4. (New section) a. The commissioner shall, not later than  
10 September 30, 2024, issue and post on the Department of Labor and  
11 Workforce Development website a report which evaluates the  
12 impacts on employers and employees of the credits provided in  
13 calendar years 2019 through 2023 to employers for gratuities and  
14 tips pursuant to subsection e. of section 5 of P.L. 1966, c.113  
15 (C.34:11-56a4). The report shall evaluate the adequacy of the  
16 minimum wage of employees who customarily and regularly  
17 receive gratuities or tips after adjustment for the credits provided to  
18 employers pursuant to subsection 5 of P.L.1966, c.113 (C.34:11-  
19 56a4).

20 b. The commissioner, in consultation with the State Treasurer,  
21 shall, not later than September 30, 2024, issue and post on the  
22 Department of Labor and Workforce Development website a report  
23 which evaluates the impacts on employers and employees of the tax  
24 credits provided in calendar years 2019 through 2023 to employers  
25 of employees with impairments pursuant to sections 5 through 9 of  
26 P.L. , c. (C. ) (pending before the Legislature as this bill).  
27 The report will include recommendations regarding the continuation  
28 of the tax credits.

29  
30 5. (New section) As used in sections 5 through 9 of P.L. ,  
31 c. (C. ) (pending before the Legislature as this bill):

32 “Commissioner” means the Commissioner of Labor and  
33 Workforce Development.

34 “Employee with an impairment” means an employee earning at  
35 least the minimum wage on the effective date of P.L. , c. (C. )  
36 (pending before the Legislature as this bill) whose work capacity is  
37 significantly impaired by age or physical or mental deficiency or  
38 injury and who, based on a determination by the State, is found  
39 eligible for personal assistance services or prescribed drugs because  
40 without such services or drugs the individual would be unable to  
41 perform the essential functions of the employment position that the  
42 individual holds.

43 “Employer” means any nongovernmental business entity  
44 including, but not limited to, a nonprofit organization, a  
45 corporation, S corporation, limited liability company, partnership,  
46 limited partnership, and sole proprietorship, and shall include all  
47 entities related by common ownership or control.

1       “Tax year” means the calendar year <sup>1</sup>or fiscal year<sup>1</sup> in which a  
2 taxpayer’s gross income tax or corporation business tax liability is  
3 due and payable.

4  
5       6. (New section) a. There is established in the Department of  
6 Labor and Workforce Development a program, administered by the  
7 commissioner, to provide tax credits to employers of employees  
8 with impairments. The purpose of the program is to provide tax  
9 credits to employers of employees with impairments to help to  
10 offset the cost to the employer of any wage increases for those  
11 employees caused by the enactment of P.L. , c. (C. )  
12 (pending before the Legislature as this bill), including the cost to  
13 the employer of corresponding increases in payroll taxes that  
14 employer paid on those workers’ wages.

15       b. Prior to January 1, 2025, an employer subject to the  
16 provisions of subsections a. and e. of section 5 of P.L 1966, c.113  
17 (C.34:11-56a4) may apply to the commissioner for an award of tax  
18 credits under this section. A tax credit allowed pursuant to this  
19 section shall be in the amount provided in subsections d. and e. of  
20 this section against the corporation business tax imposed pursuant  
21 to section 5 of P.L.1945, c.162 (C.54:10A-5) or the gross income  
22 tax imposed pursuant to the “New Jersey Gross Income Tax Act,”  
23 N.J.S.54A:1-1 et seq., whichever of the two taxes is applicable to  
24 the employer.

25       c. Prior to January 1, 2028, an employer subject to the  
26 provisions of subsections c. and d. of section 5 of P.L 1966, c.113  
27 (C.34:11-56a4) may apply to the commissioner for an award of tax  
28 credits under this section. A tax credit allowed pursuant to this  
29 section shall be in the amount provided in subsections d. and e. of  
30 this section against the corporation business tax imposed pursuant  
31 to section 5 of P.L.1945, c.162 (C.54:10A-5) or the gross income  
32 tax imposed pursuant to the “New Jersey Gross Income Tax Act,”  
33 N.J.S.54A:1-1 et seq., whichever of the two taxes is applicable to  
34 the employer.

35       d. (1) The final amount of the tax credit provided to an  
36 employer for employees with impairments employed by the  
37 employer during a tax year shall be a preliminary amount of the tax  
38 credit, which is the amount by which the wages and payroll taxes  
39 which the employer is required to pay each employee with an  
40 impairment the employer employs pursuant to P.L. , c. (C. )  
41 (pending before the Legislature of this bill) during the tax year  
42 exceeds the amount that the employer actually paid for the  
43 employee with an impairment in wages and payroll taxes in the last  
44 preceding calendar year (as adjusted pursuant to subparagraph (c) of  
45 this paragraph), provided that:

46       (a) if the number of hours worked during the tax year by an  
47 employee with an impairment employed by the employer is equal to  
48 the number of hours the employee with an impairment worked for

1 the employer during the last preceding calendar year, then the  
2 preliminary amount of the tax credit for each of the hours worked  
3 shall be in the amount that remains after the amount actually paid  
4 for the employee with an impairment in wages and payroll taxes  
5 during the last preceding calendar year (as adjusted pursuant to  
6 subparagraph (c) of this paragraph) is subtracted from the amount  
7 which is required to be paid for the employee with an impairment in  
8 payroll taxes and in wages pursuant to the minimum wage rate  
9 which applies to the tax year pursuant to P.L. , c. (C. )  
10 (pending before the Legislature of this bill);

11 (b) if the number of hours worked during the tax year by an  
12 employee with an impairment employed by the employer is greater  
13 than the number of hours worked by the employee with an  
14 impairment employed by the employer during the last preceding  
15 calendar year, then the preliminary amount of the tax credit shall be  
16 calculated in two parts and the sum of the two parts shall be the  
17 preliminary amount of the tax credit. In the first part of the  
18 calculation, regarding the hours worked during the tax year which  
19 are equal to the number of hours worked during the last preceding  
20 calendar year, the preliminary amount of the tax credit shall be  
21 calculated in the same manner as the credit is calculated in  
22 subparagraph (a) of this paragraph. In the second part of the  
23 calculation, regarding the hours worked during the tax year which  
24 are in addition to the number of hours worked during the last  
25 preceding calendar year, the preliminary amount of the tax credit  
26 for each additional hour shall be calculated in the same manner as  
27 the credit is calculated in subparagraph (a) of this paragraph, except  
28 that it shall be presumed that the additional number of hours worked  
29 by the employee with an impairment would have been paid at the  
30 minimum wage rate in effect during the last preceding calendar year  
31 (as adjusted pursuant to subparagraph (c) of this paragraph), and the  
32 preliminary amount of the tax credit for each of those hours of work  
33 shall be calculated by subtracting that presumed rate from the actual  
34 minimum wage rate for the tax year; and

35 (c) In making any of the calculations in this paragraph, the actual  
36 rate of pay paid to an employee with an impairment in the preceding  
37 calendar year shall be increased by whichever is the larger of:

38 (i) the increase in the State minimum wage that would have  
39 occurred, for the applicable tax year, if P.L. , c. (C. )  
40 (pending before the Legislature as this bill) had not been enacted; or

41 (ii) any increase in the federal minimum hourly wage rate set for  
42 the applicable tax year pursuant to section 6(a)(1) of the federal  
43 "Fair Labor Standards Act of 1938" (29 U.S.C. s.206(a)(1)).

44 (2) If the number of hours worked during the tax year by an  
45 employee with an impairment employed by the employer is less  
46 than the number of hours worked during the last preceding calendar  
47 year, then the employer shall not be eligible for a tax credit under  
48 this section for that tax year for that employee with an impairment.

1 e. An employer may qualify for a tax credit pursuant to  
2 sections 5 through 9 of P.L. c. (C. ) (pending before the  
3 Legislature as this bill) in a taxable year or privilege period  
4 beginning on or after January 1, 2019. An employer who qualifies  
5 for a tax credit pursuant to this section with respect to hours worked  
6 during a tax year may use the tax credit when determining the  
7 employer's estimated tax for the purpose of making installment  
8 payments of the tax during that tax year. The commissioner shall,  
9 upon request, provide assistance to the employer in estimating the  
10 likely amount of the tax credit to assist the employer in determining  
11 the amount of the tax credit and the installment payments of the tax  
12 during a tax year. For tax years 2019 and 2020, the Director of the  
13 Division of Taxation may waive in part, or entirely, penalties for  
14 underpayment of taxes in connection with installment payments to  
15 the extent that the director finds that the underpayment occurred  
16 because of a good faith error of the employer in calculating the  
17 amount of the credit. Any misclassification of an employee by an  
18 employer who knowingly, in applying for the tax credit,  
19 falsely represents an employee as an employee with an impairment  
20 shall be regarded as a violation of the applicable State tax law and  
21 shall be subject to three times the amount of penalties otherwise  
22 provided in that law for violations of the law and, for that  
23 violation, the penalty shall not be waived, including during tax  
24 years 2019 and 2020.

25 f. An employer shall not be eligible for a tax credit pursuant to  
26 sections 5 through 9 of P.L. , c. (C. ) (pending before the  
27 Legislature as this bill) if the commissioner determines that the  
28 employer reduced the wages that the employer paid to any  
29 employee with an impairment employed by the employer to be  
30 eligible for a tax credit under sections 5 through 9 of P.L. ,  
31 c. (C. ) (pending before the Legislature as this bill) in a  
32 future year.

33 g. The combined value of all tax credits approved annually by  
34 the commissioner pursuant to this section shall not exceed  
35 \$10,000,000 in a calendar year. The commissioner shall annually  
36 review and report to the Legislature in accordance with section 2 of  
37 P.L.1991, c.164 (C.52:14-19.1) on the sufficiency of the tax credit  
38 cap authorized pursuant to this subsection and have any  
39 recommendations with respect thereto to the Legislature.

40  
41 7. (New section) a. Notwithstanding any provision of the  
42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
43 seq.) to the contrary, the commissioner, in consultation with the  
44 State Treasurer, may adopt, upon filing with the Office of  
45 Administrative Law, such regulations that the commissioner deems  
46 necessary to implement the provisions of sections 5 through 9 of  
47 P.L. , c. (C. ) (pending before the Legislature as this bill),  
48 which regulations shall be effective for a period not to exceed 180

1 days from the date of the filing. The commissioner shall thereafter  
2 amend, adopt, or readopt the regulations in accordance with the  
3 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The  
4 regulations adopted by the commissioner shall include the  
5 following:

6 (1) standards and procedures for determining which employees  
7 are employees with impairments for the purpose of determining the  
8 eligibility of employers for tax credits;

9 (2) any additions to, or modifications of, wage record-keeping  
10 requirements needed to calculate the amounts of tax credits under  
11 sections 5 through 9 of P.L. , c. (C. ) (pending before the  
12 Legislature as this bill); <sup>1</sup>**[and]**<sup>1</sup>

13 (3) continuing to provide the calculation, for each year, of what  
14 the minimum wage would have been under section 5 of P.L.1966  
15 (C.34:11-56a4) and paragraph 23 of Article I of the New Jersey  
16 Constitution if P.L. , c. (pending before the Legislature as this  
17 bill) had not been enacted <sup>1</sup>; and

18 (4) a method for employers to submit certificates of credit to the  
19 Division of Taxation pursuant to sections 8 and 9 of P.L. ,  
20 c. (C. ) (pending before the Legislature as this bill)<sup>1</sup>.

21 b. Beginning the year next following the year in which P.L. ,  
22 c. (pending before the Legislature as this bill) takes effect and  
23 every two years thereafter, the commissioner shall prepare a report  
24 concerning the award of tax credits under sections 5 through 9 of  
25 P.L. , c. (C. ) (pending before the Legislature as this bill),  
26 and submit the report to the Governor, and, pursuant to section 2 of  
27 P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial  
28 report required under this subsection shall include the names and  
29 locations of, and the amount of tax credits allowed to, each  
30 employer allowed a tax credit under sections 5 through 9 of P.L. ,  
31 c. (C. ) (pending before the Legislature as this bill).  
32

33 8. (New section) a. The Director of the Division of Taxation in  
34 the Department of the Treasury shall allow an employer a credit  
35 against the corporation business tax imposed pursuant to section 5  
36 of P.L.1945, c.162 (C.54:10A-5) in the amount certified by the  
37 Commissioner of Labor and Workforce Development as the  
38 taxpayer's tax credit amount pursuant to section 6 of P.L. ,  
39 c. (C. ) (pending before the Legislature as this bill). To claim  
40 the tax credit amount for a privilege period, the taxpayer shall  
41 submit to the director the certificate of credit issued for that  
42 privilege period by the commissioner pursuant to section 6 of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill).  
44

45 b. An employer shall apply the credit awarded against the  
46 employer's liability under section 5 of P.L.1945, c.162 (C.54:10A-  
47 5) for the privilege period during which the director allows the  
48 employer a tax credit pursuant to this section. An employer shall  
not carry forward an unused credit.

1 c. The director shall prescribe the order of priority of the  
2 application of the credit allowed under this section and any other  
3 credits allowed by law against the tax imposed under section 5 of  
4 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
5 under this section against the tax imposed pursuant to section 5 of  
6 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
7 any other credits allowed by law, shall not reduce the tax liability to  
8 an amount less than the statutory minimum provided in subsection  
9 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

10  
11 9. (New section) a. The Director of the Division of Taxation in  
12 the Department of the Treasury shall allow an employer a credit  
13 against the gross income tax imposed pursuant to the “New Jersey  
14 Gross Income Tax Act” N.J.S.54A:1-1 et seq. in the amount  
15 certified by the Commissioner of Labor and Workforce  
16 Development as the taxpayer’s tax credit amount pursuant to  
17 section 6 of P.L. , c. (C. ) (pending before the Legislature  
18 as this bill). To claim the tax credit amount for a taxable year, the  
19 taxpayer shall submit to the director the certificate of credit issued  
20 for that taxable year by the commissioner pursuant to section 6 of  
21 P.L. , c. (C. ) (pending before the Legislature as this bill).

22 b. An employer shall apply the credit awarded against the  
23 employer’s liability under the “New Jersey Gross Income Tax Act”  
24 N.J.S.54A:1-1 et seq. for the taxable year during which the director  
25 allows the employer a tax credit pursuant to this section. An  
26 employer shall not carry forward an unused credit.

27 c. The director shall prescribe the order of priority of the  
28 application of the credit allowed under this section and any other  
29 credits allowed by law against the tax imposed under the “New  
30 Jersey Gross Income Tax Act” N.J.S.54A:1-1 et seq. The amount  
31 of the credit applied under this section against the tax imposed  
32 pursuant to the “New Jersey Gross Income Tax Act” N.J.S.54A:1-1  
33 et seq. for a taxable year, together with any other credits allowed by  
34 law, shall not reduce the tax liability to an amount less than  
35 zero. No tax credit shall be allowed pursuant to this section for any  
36 wages and payroll taxes included in the calculation of any other tax  
37 credit granted pursuant to a claim made on a tax return filed with  
38 the director for a period of time that coincides with the taxable year  
39 for which a tax credit authorized pursuant to this section is allowed.

40 d. A business entity that is classified as a partnership for  
41 federal income tax purposes shall not be allowed the tax credit  
42 directly under N.J.S.54A:1-1 et seq., but the amount of credit of the  
43 taxpayer in respect of a distributive share of partnership income  
44 shall be determined by allocating to the taxpayer that proportion of  
45 the credit acquired by the partnership that is equal to the taxpayer’s  
46 share, whether or not distributed, of the total distributive income or  
47 gain of the partnership for its taxable year ending within or with the  
48 taxpayer’s taxable year.

1       A taxpayer that is a New Jersey S corporation shall not be  
2 allowed the tax credit directly under N.J.S.54A:1-1 et seq., but the  
3 amount of credit of a taxpayer in respect of a pro-rata share of S  
4 corporation income shall be determined by allocating to the  
5 taxpayer that proportion of the credit acquired by the New Jersey S  
6 corporation that is equal to the taxpayer's share, whether or not  
7 distributed, of the total pro-rata share of S corporation income of  
8 the New Jersey S corporation for its privilege period ending within  
9 or with the taxpayer's taxable year.

10

11       10. This act shall take effect immediately.