

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

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

ADOPTED JANUARY 24, 2019

**Sponsored by:**

**Assemblyman CRAIG J. COUGHLIN**

**District 19 (Middlesex)**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

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**District 34 (Essex and Passaic)**

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**District 4 (Camden and Gloucester)**

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**District 31 (Hudson)**

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**District 17 (Middlesex and Somerset)**

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**District 14 (Mercer and Middlesex)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**Co-Sponsored by:**

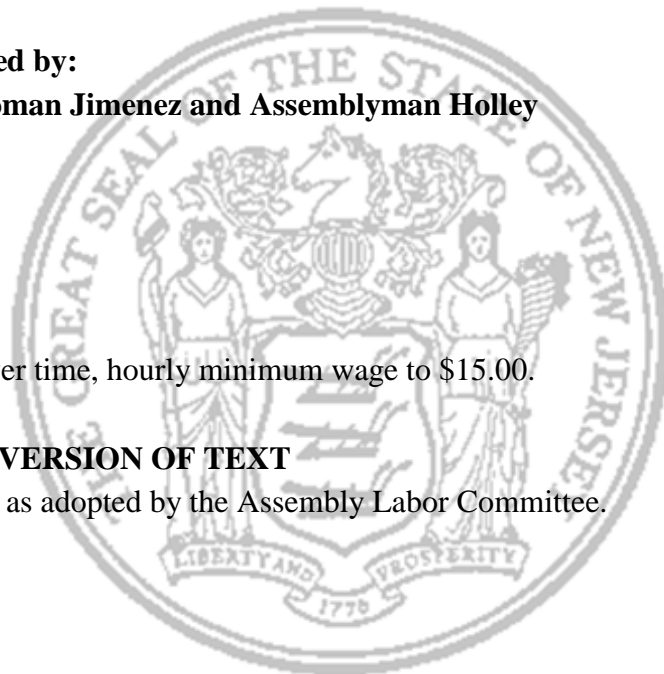
**Assemblywoman Jimenez and Assemblyman Holley**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Labor Committee.



(Sponsorship Updated As Of: 1/29/2019)

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.**

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 or non-profit or  
33 government entity of an individual who is not employed by that  
34 employer outside of the period of that year commencing on May 1  
35 and ending September 30, except that "seasonal employment" does  
36 not include employment of employees engaged on a piece-rate or  
37 regular hourly rate basis to labor on a farm.

38 (o) "Seasonal employer" means an employer for which, during  
39 the immediately previous calendar year, not less than two thirds of  
40 the employer's gross receipts were received in a continuous period  
41 of not more than sixteen weeks.

42 (p) "Small employer" means any employer who employed less  
43 than six employees for every working day during each of a majority  
44 of the calendar workweeks in the current calendar year and less than  
45 six employees for every working day during not less than 48  
46 calendar workweeks in the preceding calendar year, except that, if  
47 the employer was newly established during the preceding calendar  
48 year, the employer shall be regarded as a "small employer" if the

1 employer employed less than six employees for every working day  
2 during all of the weeks of that year, and during a majority of the  
3 calendar workweeks in the current calendar year, and, if the  
4 employer is newly established during the current calendar year, the  
5 employer shall be regarded as a “small employer” if the employer  
6 employed less than six employees for every working day during a  
7 majority of the calendar workweeks in the current calendar year.  
8 (cf: P.L.2001, c.416, s.2)

9  
10 2. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to  
11 read as follows:

12 5. **【Every】** a. Except as provided in subsections c., d., e. and  
13 g. of this section, each employer shall pay to each of his employees  
14 wages at a rate of not less than 【\$5.05 per hour as of April 1, 1992  
15 and, after January 1, 1999 the federal minimum hourly wage rate set  
16 by section 6(a)(1) of the federal "Fair Labor Standards Act of 1938"  
17 (29 U.S.C. s.206(a)(1)), and, as of October 1, 2005, \$6.15 per hour,  
18 and as of October 1, 2006, \$7.15 per hour for 40 hours of working  
19 time in any week and 1 1/2 times such employee's regular hourly  
20 wage for each hour of working time in excess of 40 hours in any  
21 week, except this overtime rate shall not include any individual  
22 employed in a bona fide executive, administrative, or professional  
23 capacity or, if】 \$8.85 per hour as of January 1, 2019 and, on  
24 January 1 of 2020 and January 1 of each subsequent year, the  
25 minimum wage shall be increased by any increase in the consumer  
26 price index for all urban wage earners and clerical workers (CPI-W)  
27 as calculated by the federal government for the 12 months prior to  
28 the September 30 preceding that January 1, except that any of the  
29 following rates shall apply if it exceeds the rate determined in  
30 accordance with the applicable increase in the CPI-W for the  
31 indicated year: on July 1, 2019, the minimum wage shall be \$10.00  
32 per hour; on January 1, 2020, the minimum wage shall be \$11.00  
33 per hour; and on January 1 of each year from 2021 to 2024,  
34 inclusive, the minimum wage shall be increased from the rate of the  
35 preceding year by \$1.00 per hour. If the federal minimum hourly  
36 wage rate set by section 6 of the federal "Fair Labor Standards Act  
37 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
38 level higher than the State minimum wage rate set by this  
39 subsection, then the State minimum wage rate shall be increased to  
40 the level of the federal minimum wage rate and subsequent  
41 increases based on increases in the CPI-W pursuant to this section  
42 shall be applied to the higher minimum wage rate. If an applicable  
43 wage order has been issued by the commissioner under section 17  
44 (C.34:11-56a16) of this act, the employer shall also pay not less  
45 than the wages prescribed in said order. The wage rates fixed in  
46 this section shall not be applicable to part-time employees primarily  
47 engaged in the care and tending of children in the home of the  
48 employer, to persons under the age of 18 not possessing a special

1 vocational school graduate permit issued pursuant to section 15 of  
2 P.L.1940, c.153 (C.34:2-21.15), or to persons employed as  
3 salesmen of motor vehicles, or to persons employed as outside  
4 salesmen as such terms shall be defined and delimited in regulations  
5 adopted by the commissioner, or to persons employed in a volunteer  
6 capacity and receiving only incidental benefits at a county or other  
7 agricultural fair by a nonprofit or religious corporation or a  
8 nonprofit or religious association which conducts or participates in  
9 that fair.

10 b. **【The provisions of this section for the payment to an】**

11 (1) An employer shall also pay each employee 【of】 not less than  
12 1 1/2 times such employee's regular hourly rate for each hour of  
13 working time in excess of 40 hours in any week, except that this  
14 overtime rate shall not apply; to any individual employed in a bona  
15 fide executive, administrative, or professional capacity; or to  
16 employees engaged to labor on a farm or employed in a hotel; or to  
17 an employee of a common carrier of passengers by motor bus; or to  
18 a limousine driver who is an employee of an employer engaged in  
19 the business of operating limousines; or to employees engaged in  
20 labor relative to the raising or care of livestock.

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

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

28 c. Employees of a small employer, and employees who are  
29 engaged in seasonal employment, except for employees who  
30 customarily and regularly receive gratuities or tips who shall be  
31 subject to the provisions of subsections a. and d. of this section,  
32 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1  
33 of 2020 and January 1 of each subsequent year, that minimum wage  
34 rate shall be increased by any increase in the consumer price index  
35 for all urban wage earners and clerical workers (CPI-W) as  
36 calculated by the federal government for the 12 months prior to the  
37 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 January 1, 2020, the minimum wage shall be  
41 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,  
42 inclusive, the minimum wage shall be increased from the rate of the  
43 preceding year by eighty cents per hour, and, in 2026, the minimum  
44 wage shall be increased from the rate of the preceding year by  
45 seventy cents per hour, and, in each year from 2027 to 2028  
46 inclusive, the minimum wage for employees subject to this  
47 subsection c. shall be increased by the same amount as the increase  
48 for employees subject to subsection a. of this section based on CPI-

1 W increases, plus one half of the difference between \$15.00 per  
2 hour and the minimum wage in effect in 2026 for employees  
3 pursuant to subsection a. of this section, so that, by 2028, the  
4 minimum wage for employees subject to this subsection shall be the  
5 same as the minimum wage in effect for employees subject to  
6 subsection a. of this section. If the federal minimum hourly wage  
7 rate set by section 6 of the federal "Fair Labor Standards Act of  
8 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
9 level higher than the State minimum wage rate set by this  
10 subsection, then the State minimum wage rate shall be increased to  
11 the level of the federal minimum wage rate and subsequent  
12 increases based on increases in the CPI-W pursuant to this  
13 subsection shall be applied to the higher minimum wage rate.

14 d. Employees engaged on a piece-rate or regular hourly rate  
15 basis to labor on a farm shall be paid \$8.85 per hour as of January  
16 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent  
17 year, that minimum wage rate shall be increased by any increase in  
18 the consumer price index for all urban wage earners and clerical  
19 workers (CPI-W) as calculated by the federal government for the 12  
20 months prior to the September 30 preceding that January 1, except  
21 that any of the following rates shall apply if it exceeds the rate  
22 determined in accordance with the applicable increase in the CPI-W  
23 for the indicated year:

24 (1) on January 1, 2020, the minimum wage shall be \$10.30 per  
25 hour; on January 1, 2022, the minimum wage shall be \$10.90 per  
26 hour; and on January 1 of each year from 2023 to 2024, inclusive,  
27 the minimum wage shall be increased from the rate of the preceding  
28 year by eighty cents per hour; and

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

44 (3) Not later than March 31, 2024, the commissioner and the  
45 Secretary of Agriculture shall review the report issued by the  
46 commissioner pursuant to subsection b. of section 4 of P.L. \_\_\_\_\_,  
47 c. (C. \_\_\_\_\_)(pending before the Legislature as this bill) and shall  
48 consider any information provided by the secretary regarding the

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

27 (4) If the federal minimum hourly wage rate set by section 6 of  
28 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or  
29 a successor federal law, is raised to a level higher than the State  
30 minimum wage rate set by this subsection, then the State minimum  
31 wage rate shall be increased to the level of the federal minimum  
32 wage rate and subsequent increases based on increases in the CPI-  
33 W pursuant to this subsection shall be applied to the higher  
34 minimum wage rate.

35 e. With respect to an employee who customarily and regularly  
36 receives gratuities or tips, every employer is entitled to a credit for  
37 the gratuities or tips received by the employee against the hourly  
38 wage rate that would otherwise be paid to the employee pursuant to  
39 subsection a. of this section of the following amounts: after  
40 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after  
41 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during  
42 calendar years 2020, 2021 and 2022, \$7.87 per hour; during  
43 calendar year 2023, \$8.87 per hour; and during calendar year 2024  
44 and subsequent calendar years, \$9.87 per hour.

45 f. Notwithstanding the provisions of this section to the  
46 contrary, every trucking industry employer shall pay to all drivers,  
47 helpers, loaders and mechanics for whom the Secretary of  
48 Transportation may prescribe maximum hours of work for the safe

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

19 g. Commencing on January 1, 2020, a training wage of not less  
20 than 90 percent of the minimum wage rate otherwise set pursuant to  
21 subsection a. of this section may be paid to an employee who is  
22 enrolled in an established employer on-the-job or other training  
23 program which meets standards set by regulations adopted by the  
24 commissioner. The period during which an employer may pay the  
25 training wage to the employee shall be the first 120 hours of work  
26 after hiring the employee in employment in an occupation in which  
27 the employee has no previous similar or related experience. An  
28 employer shall not utilize any employee paid the training wage in a  
29 manner which causes, induces, encourages or assists any  
30 displacement or partial displacement of any currently employed  
31 worker, including any previous recipient of the training wage, by  
32 reducing hours of a currently employed worker, replacing a current  
33 or laid off employee with a trainee, or by relocating operations  
34 resulting in a loss of employment at a previous workplace, or in a  
35 manner which replaces, supplants, competes with or duplicates any  
36 approved apprenticeship program. An employer who pays an  
37 employee a training wage shall make a good faith effort to continue  
38 to employ the employee after the period of the training wage  
39 expires and shall not hire the employee at the training wage unless  
40 there is a reasonable expectation that there will be regular  
41 employment, paying at or above the effective minimum wage, for  
42 the trainee upon the successful completion of the period of the  
43 training wage. If the commissioner determines that an employer  
44 has made repeated, knowing violations of the provisions of this  
45 subsection regarding the payment of a training wage, the  
46 commissioner shall suspend the employer's right to pay a training  
47 wage for a period set pursuant to regulations adopted by the  
48 commissioner, but not less than three years.



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

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

20  
21     3. (New section) a. There is established, in but not of the  
22 Department of Labor and Workforce Development, the “Task Force  
23 on Wages and State Benefits.” The task force shall consist of 11  
24 members, including the Commissioners of Health, Human Services,  
25 Education, Community Affairs, and Labor and Workforce  
26 Development, and the State Treasurer, or their designees, all who  
27 shall serve ex officio, and five public members appointed by the  
28 Governor with the advice and consent of the Senate as follows: one  
29 person nominated by an organization which represents the interests  
30 of the business community in this State, one person nominated by  
31 the New Jersey State AFL-CIO, two persons nominated by  
32 organizations representing the interests of low-income individuals,  
33 and one person representing the interests of other disadvantaged  
34 individuals who rely on services and benefits provided or  
35 administered by the State or its instrumentalities. Public members  
36 shall be appointed for four-year terms and may be re-appointed for  
37 any number of terms. Any public member of the task force may be  
38 removed from office by the Governor, for cause, upon notice and  
39 opportunity to be heard. Vacancies shall be filled in the same  
40 manner as the original appointment for the balance of the unexpired  
41 term. A member shall continue to serve upon the expiration of the  
42 member’s term until a successor is appointed and qualified, unless  
43 the member is removed by the Governor.

44     b. Action may be taken by the task force by an affirmative vote  
45 of a majority of its members and a majority of the task force shall  
46 constitute a quorum for the transaction of any business, for the  
47 performance of any duty, or for the exercise of any power of the  
48 task force. Members of the task force shall serve without

1 compensation, but may be reimbursed for the actual and necessary  
2 expenses incurred in the performance of their duties as members of  
3 the task force within the limits of funds appropriated or otherwise  
4 made available for that purpose.

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

22 d. In furtherance of its evaluation, the task force may hold  
23 public meetings or hearings within the State and call to its  
24 assistance and avail itself of the services of the employees of any  
25 other State department, board, or agency which the task force  
26 determines possesses relevant data, analytical and professional  
27 expertise or other resources which may assist the task force in  
28 discharging its duties under this section. Each department, board,  
29 or agency of this State is hereby directed, to the extent not  
30 inconsistent with law, to cooperate fully with the task force and to  
31 furnish such information and assistance as is necessary to  
32 accomplish the purposes of this section.

33 e. The task force shall issue its first annual report to the  
34 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
35 19.1), to the Legislature not later than September 30, 2019, and  
36 make the report available to the public by means including the  
37 posting of the report on the web sites of all of the State departments  
38 represented on the task force. Each subsequent annual report shall  
39 be issued and made available to the public not later than September  
40 30 of the respective year and shall include a review of any  
41 administrative and legislative actions taken in response to  
42 recommendations of previous reports of the task force, together  
43 with an evaluation of the effectiveness of the actions in facilitating  
44 the overall goal of raising the living standards of working families,  
45 and any further recommendation deemed appropriate by the task  
46 force.

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

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

21

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

24 “Commissioner” means the Commissioner of Labor and  
25 Workforce Development.

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

35 “Employer” means any nongovernmental business entity  
36 including, but not limited to, a nonprofit organization, a  
37 corporation, S corporation, limited liability company, partnership,  
38 limited partnership, and sole proprietorship, and shall include all  
39 entities related by common ownership or control.

40 “Tax year” means the calendar year in which a taxpayer’s gross  
41 income tax or corporation business tax liability is due and payable.

42

43 6. (New section) a. There is established in the Department of  
44 Labor and Workforce Development a program, administered by the  
45 commissioner, to provide tax credits to employers of employees  
46 with impairments. The purpose of the program is to provide tax  
47 credits to employers of employees with impairments to help to  
48 offset the cost to the employer of any wage increases for those

1 employees caused by the enactment of P.L. , c. (C. )  
2 (pending before the Legislature as this bill), including the cost to  
3 the employer of corresponding increases in payroll taxes that  
4 employer paid on those workers' wages.

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

15 c. Prior to January 1, 2028, an employer subject to the  
16 provisions of subsections c. and d. 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 d. (1) The final amount of the tax credit provided to an  
26 employer for employees with impairments employed by the  
27 employer during a tax year shall be a preliminary amount of the tax  
28 credit, which is the amount by which the wages and payroll taxes  
29 which the employer is required to pay each employee with an  
30 impairment the employer employs pursuant to P.L. , c. (C. )  
31 (pending before the Legislature of this bill) during the tax year  
32 exceeds the amount that the employer actually paid for the  
33 employee with an impairment in wages and payroll taxes in the last  
34 preceding calendar year (as adjusted pursuant to subparagraph (c) of  
35 this paragraph), provided that:

36 (a) if the number of hours worked during the tax year by an  
37 employee with an impairment employed by the employer is equal to  
38 the number of hours the employee with an impairment worked for  
39 the employer during the last preceding calendar year, then the  
40 preliminary amount of the tax credit for each of the hours worked  
41 shall be in the amount that remains after the amount actually paid  
42 for the employee with an impairment in wages and payroll taxes  
43 during the last preceding calendar year (as adjusted pursuant to  
44 subparagraph (c) of this paragraph) is subtracted from the amount  
45 which is required to be paid for the employee with an impairment in  
46 payroll taxes and in wages pursuant to the minimum wage rate  
47 which applies to the tax year pursuant to P.L. , c. (C. )  
48 (pending before the Legislature of this bill);

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

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

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

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

34 (2) If the number of hours worked during the tax year by an  
35 employee with an impairment employed by the employer is less  
36 than the number of hours worked during the last preceding calendar  
37 year, then the employer shall not be eligible for a tax credit under  
38 this section for that tax year for that employee with an impairment.

39 e. An employer may qualify for a tax credit pursuant to  
40 sections 5 through 9 of P.L. c. (C. ) (pending before the  
41 Legislature as this bill) in a taxable year or privilege period  
42 beginning on or after January 1, 2019. An employer who qualifies  
43 for a tax credit pursuant to this section with respect to hours worked  
44 during a tax year may use the tax credit when determining the  
45 employer's estimated tax for the purpose of making installment  
46 payments of the tax during that tax year. The commissioner shall,  
47 upon request, provide assistance to the employer in estimating the  
48 likely amount of the tax credit to assist the employer in determining

1 the amount of the tax credit and the installment payments of the tax  
2 during a tax year. For tax years 2019 and 2020, the Director of the  
3 Division of Taxation may waive in part, or entirely, penalties for  
4 underpayment of taxes in connection with installment payments to  
5 the extent that the director finds that the underpayment occurred  
6 because of a good faith error of the employer in calculating the  
7 amount of the credit. Any misclassification of an employee by an  
8 employer who knowingly, in applying for the tax credit,  
9 falsely represents an employee as an employee with an impairment  
10 shall be regarded as a violation of the applicable State tax law and  
11 shall be subject to three times the amount of penalties otherwise  
12 provided in that law for violations of the law and, for that  
13 violation, the penalty shall not be waived, including during tax  
14 years 2019 and 2020.

15 f. An employer shall not be eligible for a tax credit pursuant to  
16 sections 5 through 9 of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill) if the commissioner determines that the  
18 employer reduced the wages that the employer paid to any  
19 employee with an impairment employed by the employer to be  
20 eligible for a tax credit under sections 5 through 9 of P.L. , c.  
21 (C. ) (pending before the Legislature as this bill) in a future  
22 year.

23 g. The combined value of all tax credits approved annually by  
24 the commissioner pursuant to this section shall not exceed  
25 \$10,000,000 in a calendar year. The commissioner shall annually  
26 review and report to the Legislature in accordance with section 2 of  
27 P.L.1991, c.164 (C.52:14-19.1) on the sufficiency of the tax credit  
28 cap authorized pursuant to this subsection and have any  
29 recommendations with respect thereto to the Legislature.

30  
31 7. (New section) a. Notwithstanding any provision of the  
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
33 seq.) to the contrary, the commissioner, in consultation with the  
34 State Treasurer, may adopt, upon filing with the Office of  
35 Administrative Law, such regulations that the commissioner deems  
36 necessary to implement the provisions of sections 5 through 9 of  
37 P.L. , c. (C. ) (pending before the Legislature as this bill),  
38 which regulations shall be effective for a period not to exceed 180  
39 days from the date of the filing. The commissioner shall thereafter  
40 amend, adopt, or readopt the regulations in accordance with the  
41 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.). The  
42 regulations adopted by the commissioner shall include the  
43 following:

44 (1) standards and procedures for determining which employees  
45 are employees with impairments for the purpose of determining the  
46 eligibility of employers for tax credits;

47 (2) any additions to, or modifications of, wage record-keeping  
48 requirements needed to calculate the amounts of tax credits under

1 sections 5 through 9 of P.L. , c. (C. ) (pending before the  
2 Legislature as this bill); and

3 (3) continuing to provide the calculation, for each year, of what  
4 the minimum wage would have been under section 5 of P.L.1966  
5 (C.34:11-56a4) and paragraph 23 of Article I of the New Jersey  
6 Constitution if P.L. , c. (pending before the Legislature as this  
7 bill) had not been enacted.

8 b. Beginning the year next following the year in which P.L. ,  
9 c. (pending before the Legislature as this bill) takes effect and  
10 every two years thereafter, the commissioner shall prepare a report  
11 concerning the award of tax credits under sections 5 through 9 of  
12 P.L. , c. (C. ) (pending before the Legislature as this bill),  
13 and submit the report to the Governor, and, pursuant to section 2 of  
14 P.L.1991, c.164 (C.52:14-19.1), to the Legislature. Each biennial  
15 report required under this subsection shall include the names and  
16 locations of, and the amount of tax credits allowed to, each  
17 employer allowed a tax credit under sections 5 through 9 of P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill).

19  
20 8. (New section) a. The Director of the Division of Taxation in  
21 the Department of the Treasury shall allow an employer a credit  
22 against the corporation business tax imposed pursuant to section 5  
23 of P.L.1945, c.162 (C.54:10A-5) in the amount certified by the  
24 Commissioner of Labor and Workforce Development as the  
25 taxpayer's tax credit amount pursuant to section 6 of P.L. , c.  
26 (C. ) (pending before the Legislature as this bill). To claim the  
27 tax credit amount for a privilege period, the taxpayer shall submit to  
28 the director the certificate of credit issued for that privilege period  
29 by the commissioner pursuant to section 6 of P.L. , c. (C. )  
30 (pending before the Legislature as this bill).

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

36 c. The director shall prescribe the order of priority of the  
37 application of the credit allowed under this section and any other  
38 credits allowed by law against the tax imposed under section 5 of  
39 P.L.1945, c.162 (C.54:10A-5). The amount of the credit applied  
40 under this section against the tax imposed pursuant to section 5 of  
41 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with  
42 any other credits allowed by law, shall not reduce the tax liability to  
43 an amount less than the statutory minimum provided in subsection  
44 (e) of section 5 of P.L.1945, c.162 (C.54:10A-5).

45  
46 9. (New section) a. The Director of the Division of Taxation in  
47 the Department of the Treasury shall allow an employer a credit  
48 against the gross income tax imposed pursuant to the "New Jersey

1 Gross Income Tax Act” N.J.S.54A:1-1 et seq. in the amount  
2 certified by the Commissioner of Labor and Workforce  
3 Development as the taxpayer’s tax credit amount pursuant to  
4 section 6 of P.L. , c. (C. ) (pending before the Legislature  
5 as this bill). To claim the tax credit amount for a taxable year, the  
6 taxpayer shall submit to the director the certificate of credit issued  
7 for that taxable year by the commissioner pursuant to section 6 of  
8 P.L. , c. (C. ) (pending before the Legislature as this bill).

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

14 c. The director shall prescribe the order of priority of the  
15 application of the credit allowed under this section and any other  
16 credits allowed by law against the tax imposed under the “New  
17 Jersey Gross Income Tax Act” N.J.S.54A:1-1 et seq. The amount  
18 of the credit applied under this section against the tax imposed  
19 pursuant to the “New Jersey Gross Income Tax Act” N.J.S.54A:1-1  
20 et seq. for a taxable year, together with any other credits allowed by  
21 law, shall not reduce the tax liability to an amount less than  
22 zero. No tax credit shall be allowed pursuant to this section for any  
23 wages and payroll taxes included in the calculation of any other tax  
24 credit granted pursuant to a claim made on a tax return filed with  
25 the director for a period of time that coincides with the taxable year  
26 for which a tax credit authorized pursuant to this section is allowed.

27 d. A business entity that is classified as a partnership for  
28 federal income tax purposes shall not be allowed the tax credit  
29 directly under N.J.S.54A:1-1 et seq., but the amount of credit of the  
30 taxpayer in respect of a distributive share of partnership income  
31 shall be determined by allocating to the taxpayer that proportion of  
32 the credit acquired by the partnership that is equal to the taxpayer’s  
33 share, whether or not distributed, of the total distributive income or  
34 gain of the partnership for its taxable year ending within or with the  
35 taxpayer’s taxable year.

36 A taxpayer that is a New Jersey S corporation shall not be  
37 allowed the tax credit directly under N.J.S.54A:1-1 et seq., but the  
38 amount of credit of a taxpayer in respect of a pro-rata share of S  
39 corporation income shall be determined by allocating to the  
40 taxpayer that proportion of the credit acquired by the New Jersey S  
41 corporation that is equal to the taxpayer’s share, whether or not  
42 distributed, of the total pro-rata share of S corporation income of  
43 the New Jersey S corporation for its privilege period ending within  
44 or with the taxpayer’s taxable year.

45

46 10. This act shall take effect immediately.