A BILL TO BE ENTITLED

AN ACT INCREASING THE STATE’S MINIMUM WAGE TO FIFTEEN DOLLARS PER HOUR OVER FIVE YEARS, THEN ANNUALLY ADJUSTING THE MINIMUM WAGE AUTOMATICALLY BY INCREASES IN THE COST OF LIVING; ENDING THE SUBMINIMUM WAGE FOR INDIVIDUALS WITH DISABILITIES; AMENDING THE SUBMINIMUM WAGE FOR TIPPED WORKERS; AND ENDING THE EXEMPTION FOR DOMESTIC WORKERS.

The General Assembly of North Carolina enacts:

INCREASE STATE MINIMUM WAGE OVER FIVE YEARS/REPEAL SUBMINIMUM WAGE PROVISIONS

SECTION 1. G.S. 95-25.3 reads as rewritten:

“§ 95-25.3. Minimum wage.
(a) Every employer shall pay to each employee who in any workweek performs any work, wages of at least six dollars and fifteen cents ($6.15) per hour or the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. § 206(a)(1), as that wage may change from time to time, whichever is higher, except as otherwise provided in this section, the following amounts:
(1) Effective January 1, 2022, eight dollars and eighty cents ($8.80) per hour or the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. § 206(a)(1), as that wage may change from time to time, whichever is higher, except as otherwise provided in this section.
(2) Effective January 1, 2023, ten dollars and thirty-five cents ($10.35) per hour or the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. § 206(a)(1), as that wage may change from time to time, whichever is higher, except as otherwise provided in this section.
(3) Effective January 1, 2024, twelve dollars ($12.00) per hour or the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. § 206(a)(1), as that wage may change from time to time, whichever is higher, except as otherwise provided in this section.
(4) Effective January 1, 2025, thirteen dollars and fifty cents ($13.50) per hour or the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act, 29 U.S.C. § 206(a)(1), as that wage may change from time to time, whichever is higher, except as otherwise provided in this section.
(5) Effective January 1, 2026, fifteen dollars ($15.00) per hour or the minimum wage set forth in paragraph 1 of section 6(a) of the Fair Labor Standards Act,
29 U.S.C. § 206(a)(1), as that wage may change from time to time, whichever is higher, except as otherwise provided in this section. Beginning September 30, 2022, and on each September 30 thereafter, the Commissioner of Labor shall calculate an adjusted minimum wage rate using the Consumer Price Index (All 29 Urban Consumers, U.S. City Average for All Items), CPI-U, or its successor index, as calculated by the U.S. Department of Labor for the 12-month period preceding the previous September 1. Each adjusted minimum wage rate calculated shall be published on September 30 and take effect on the following January 1.

(b) In order to prevent curtailment of opportunities for employment, the wage rate for full-time students, learners, apprentices, and messengers, as defined under the Fair Labor Standards Act, shall be ninety percent (90%) of the rate in effect under subsection (a) above, rounded to the lowest nickel.

(c) The Commissioner, in order to prevent curtailment of opportunities for employment, may, by regulation, establish a wage rate less than the wage rate in effect under section (a) which may apply to persons whose earning or productive capacity is impaired by age or physical or mental deficiency or injury, as such persons are defined under the Fair Labor Standards Act.

(d) The Commissioner, in order to prevent curtailment of opportunities for employment of the economically disadvantaged and the unemployed, may, by regulation, establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect under subsection (a) which shall apply to all persons (i) who have been unemployed for at least 15 weeks and who are economically disadvantaged, or (ii) who are, or whose families are, receiving Work First Family Assistance or who are receiving supplemental security benefits under Title XVI of the Social Security Act.

Pursuant to regulations issued by the Commissioner, certificates establishing eligibility for such subminimum wage shall be issued by the Division of Employment Security.

The regulation issued by the Commissioner shall not permit employment at the subminimum rate for a period in excess of 52 weeks.

(e) The Commissioner, in order to prevent curtailment of opportunities for employment, and to not adversely affect the viability of seasonal establishments, may, by regulation, establish a wage rate not less than eighty-five percent (85%) of the otherwise applicable wage rate in effect under subsection (a) that shall apply to any employee employed by an establishment that is a seasonal food service establishment.

(f) Tips earned by a tipped employee may be counted as wages only up to the amount permitted in section 3(m) of the Fair Labor Standards Act, 29 U.S.C. 203(m), if the tipped employee is notified in advance, is permitted to retain all tips and the employer maintains accurate and complete records of tips received by each employee as such tips are certified by the employee monthly or for each pay period. Even if the employee refuses to certify tips accurately, tips may still be counted as wages when the employer complies with the other requirements of this section and can demonstrate by monitoring tips that the employee regularly receives tips in the amount for which the credit is taken. Tip pooling shall also be permissible among employees who customarily and regularly receive tips; however, no employee's tips may be reduced by more than fifteen percent (15%) under a tip pooling arrangement.

(g) Repealed by Session Laws 2006-259, s. 18, effective August 23, 2006."

INCREASE TIPPED EMPLOYEE MINIMUM WAGE

SECTION 2. (a) Effective January 1, 2022, until December 31, 2022, G.S. 95-25.3(f) reads as rewritten:

"(f) Tips earned by a tipped employee may be counted as wages only up to the amount permitted in section 3(m) of the Fair Labor Standards Act, 29 U.S.C. 203(m), if the tipped employee is notified in advance, is permitted to retain all tips and the employer maintains
accurate and complete records of tips received by each employee as such tips are certified by the employee monthly or for each pay period. Even if the employee refuses to certify tips accurately, tips may still be counted as wages when the employer complies with the other requirements of this section and can demonstrate by monitoring tips that the employee regularly receives tips in the amount for which the credit is taken. Of five dollars ($5.00) per hour. Tip pooling shall also be permissible among employees who customarily and regularly receive tips; however, no employee's tips may be reduced by more than fifteen percent (15%) under a tip pooling arrangement."

SECTION 2.(b) Effective January 1, 2023, until December 31, 2023, G.S. 95-25.3(f) reads as rewritten:
"(f) Tips earned by a tipped employee may be counted as wages only up to the amount of five dollars ($5.00) six dollars and fifty cents ($6.50) per hour. Tip pooling is permissible among employees who customarily and regularly receive tips; however, no employee's tips may be reduced by more than fifteen percent (15%) under a tip pooling arrangement."

SECTION 2.(c) Effective January 1, 2024, until December 31, 2024, G.S. 95-25.3(f) reads as rewritten:
"(f) Tips earned by a tipped employee may be counted as wages only up to the amount of six dollars and fifty cents ($6.50) eight dollars ($8.00) per hour. Tip pooling is permissible among employees who customarily and regularly receive tips; however, no employee's tips may be reduced by more than fifteen percent (15%) under a tip pooling arrangement."

SECTION 2.(d) Effective January 1, 2025, G.S. 95-25.3(f) reads as rewritten:
"(f) Tips earned by a tipped employee may be counted as wages only up to the amount of eight dollars ($8.00) nine dollars and fifty cents ($9.50) per hour. Tip pooling is permissible among employees who customarily and regularly receive tips; however, no employee's tips may be reduced by more than fifteen percent (15%) under a tip pooling arrangement."

REPEAL EXEMPTIONS FOR DOMESTIC WORKERS

SECTION 3. G.S. 95-25.14(a) reads as rewritten:
"(a) The provisions of G.S. 95-25.3 (Minimum Wage), G.S. 95-25.4 (Overtime), and G.S. 95-25.5 (Youth Employment), and the provisions of G.S. 95-25.15(b) (Record Keeping) as they relate to these exemptions, do not apply to any of the following:
(1) Any person employed in an enterprise engaged in commerce or in the production of goods for commerce as defined in the Fair Labor Standards Act:
   a. Except as otherwise specifically provided in G.S. 95-25.5; G.S. 95-25.5.
   b. Notwithstanding the above, any employee other than a learner, apprentice, student, or handicapped worker as defined in the Fair Labor Standards Act who is not otherwise exempt under the other provisions of this section, and for whom the applicable minimum wage under the Fair Labor Standards Act is less than the minimum wage provided in G.S. 95-25.3, is not exempt from the provisions of G.S. 95-25.3 or G.S. 95-25.4; G.S. 95-25.4.
   c. Notwithstanding the above, any employer or employee exempt from the minimum wage, overtime, or child labor requirements of the Fair Labor Standards Act for whom there is no comparable exemption under this Article shall not be exempt under this subsection except that where an exemption in the Fair Labor Standards Act provides a method of computing overtime which is an alternative to the method required in 29 U.S.C.S. § 207(a), the employer or employee subject to that alternate method shall be exempt from the provisions of G.S. 95-25.4(a); provided that, persons not employed at an enterprise
described in subdivision (1) of this subsection shall also be subject to
the same alternative methods of overtime calculation in the
circumstances described in the Fair Labor Standards Act exemptions
providing those alternative methods.

(2) Any person employed in agriculture, as defined under the Fair Labor
Standards Act.

(3) Any person employed as a domestic, including baby sitters and companions,
as defined under the Fair Labor Standards Act;

(4) Any person employed as a page in the North Carolina General Assembly or
in the Governor's Office.

(5) Bona fide volunteers in medical, educational, religious, or nonprofit
organizations where an employer-employee relationship does not exist.

(6) Persons confined in and working for any penal, correctional or mental
institution of the State or local government.

(7) Any person employed as a model, or as an actor or performer in motion
pictures or theatrical, radio or television productions, as defined under the Fair
Labor Standards Act, except as otherwise specifically provided in
G.S. 95-25.5.

(8) Any person employed by an outdoor drama in a production role, including
lighting, costumes, properties and special effects, except as otherwise
specifically provided in G.S. 95-25.5; but this exemption does not include
such positions as office workers, ticket takers, ushers and parking lot
attendants."

SECTION 4. Except as otherwise provided, this act is effective when it becomes
law.