

1 S.23

2 Introduced by Senators Sirotkin, Balint, Baruth, Bray, Clarkson, Cummings,
3 Hardy, Hooker, Ingram, Lyons, MacDonald, McCormack,
4 Pearson, Perchlik, Pollina and White

5 Referred to Committee on Economic Development, Housing and General
6 Affairs

7 Date: January 16, 2019

8 Subject: Labor; employment practices; minimum wages

9 Statement of purpose of bill as introduced: This bill proposes to increase the
10 minimum wage so that it reaches \$15.00 per hour by January 1, 2024.

11 An act relating to increasing the minimum wage

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 ~~Sec. 1. 21 V.S.A. § 384 is amended to read:~~

14 § 384. EMPLOYMENT; WAGES

15 (a)(1) An employer shall not employ any employee at a rate of less than
16 \$9.15. Beginning on January 1, 2016, an employer shall not employ any
17 employee at a rate of less than \$9.60. Beginning on January 1, 2017, an
18 employer shall not employ any employee at a rate of less than \$10.00.

19 ~~Beginning on January 1, 2018, an employer shall not employ any employee at~~

1 ~~a rate of less than \$10.50, and beginning \$10.78. Beginning on January 1,~~
2 2019 2020, an employer shall not employ any employee at a rate of less than
3 \$11.50. Beginning on January 1, 2021, an employer shall not employ any
4 employee at a rate of less than \$12.25. Beginning on January 1, 2022, an
5 employer shall not employ any employee at a rate of less than \$13.10.
6 Beginning on January 1, 2023, an employer shall not employ any employee at
7 a rate of less than \$14.05. Beginning on January 1, 2024, an employer shall
8 not employ any employee at a rate of less than \$15.00, and on each subsequent
9 January 1, the minimum wage rate shall be increased by five percent or the
10 percentage increase of the Consumer Price Index, CPI-U, U.S. city average,
11 not seasonally adjusted, or successor index, as calculated by the U.S.
12 Department of Labor or successor agency for the 12 months preceding the
13 previous September 1, whichever is smaller, but in no event shall the minimum
14 wage be decreased. The minimum wage shall be rounded off to the nearest
15 \$0.01.

16 (2) An employer shall not employ a secondary school student at a rate
17 of less than the minimum wage established pursuant to subdivision (1) of this
18 subsection minus \$3.00.

19 (3) An employer in the hotel, motel, tourist place, and restaurant
20 industry shall not employ a service or tipped employee at a basic wage rate
21 less than one-half the minimum wage. As used in this subsection, a service or

1 ~~tipped employee” means an employee of a hotel, motel, tourist place, or~~
2 ~~restaurant who customarily and regularly receives more than \$120.00 per~~
3 ~~month in tips for direct and personal customer service.~~

4 (4) If the minimum wage rate established by the U.S. government is
5 greater than the rate established for Vermont for any year, the minimum wage
6 rate for that year shall be the rate established by the U.S. government.

7 * * *

8 (e)(1) A tip shall be the sole property of the employee or employees to
9 whom it was paid, given, or left. An employer that permits patrons to pay tips
10 by credit card shall pay an employee the full amount of the tip that the
11 customer indicated, without any deductions for credit card processing fees or
12 costs that may be charged to the employer by the credit card company.

13 (2) An employer shall not collect, deduct, or receive any portion of a tip
14 left for an employee or credit any portion of a tip left for an employee against
15 the wages due to the employee pursuant to subsection (a) of this section.

16 (3) This subsection shall not be construed to prohibit the pooling of tips
17 among service or tipped employees as defined pursuant to subsection (a) of
18 this section.

~~Sec. 2. CHILD CARE FINANCIAL ASSISTANCE PROGRAM; STATE~~

~~PLAN~~

~~To the extent funds are appropriated, the Commissioner for Children and Families shall amend the Department for Children and Families' federal Child Care and Development Fund State Plan to:~~

~~(1) adjust the sliding scale of the Child Care Financial Assistance Program benefit to correspond with each minimum wage increase required pursuant to this act to ensure that the benefit percentage at each new minimum wage level remains the same as the percentage applied under the former minimum wage; and~~

~~(2) adjust the market rate used to inform the fee scale in a manner that offsets the estimated increased cost of child care in Vermont resulting from the increase in the minimum wage required pursuant to this act.~~

Sec. 3. MINIMUM WAGE; ADJUSTMENT FOR INFLATION; REPORT

On or before January 15, 2023, the Office of Legislative Council and the Joint Fiscal Office shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding potential mechanisms for indexing the minimum wage established pursuant to 21 V.S.A. ~~§ 384~~ to inflation after 2024. In particular, the report shall

1 ~~(1) identify and examine mechanisms that other jurisdictions use to~~
2 ~~index their minimum wages to inflation and the potential benefits and~~
3 ~~disadvantages of each mechanism; and~~

4 ~~(2) identify and examine any alternative mechanisms to index the~~
5 ~~minimum wage to inflation, including alternative measures of inflation, and~~
6 ~~the potential benefits and disadvantages of each mechanism.~~

7 Sec. 4. 21 V.S.A. § 383 is amended to read:

8 § 383. DEFINITIONS

9 ~~Terms used in this subchapter have the following meanings~~ As used in this
10 subchapter, unless a different meaning is clearly apparent from the language or
11 context:

12 (1) "Commissioner," means the Commissioner of Labor or designee.

13 (2) "Employee," means any individual employed or permitted to work
14 by an employer except:

15 * * *

16 (G) ~~taxi-cab~~ taxicab drivers; and

17 (H) outside salespersons; and

18 (I) ~~students working during all or any part of the school year or~~
19 ~~regular vacation periods.~~ [Repealed.]

20 (3) "Occupation," means an industry, trade, or business or branch
21 ~~thereof, or a class of work in which workers are gainfully employed.~~

1 ~~(4) "Tip" means a sum of money gratuitously and voluntarily left by a~~
2 ~~customer for service, or indicated on a bill or charge statement, to be paid to a~~
3 ~~service or tipped employee for directly and personally serving the customer in~~
4 ~~a hotel, motel, tourist place, or restaurant. An employer-mandated service~~
5 ~~charge shall not be considered a tip.~~

6 Sec. 5. EFFECTIVE DATES

7 (a) In Sec. 1, 21 V.S.A. § 384, subdivision (a)(2) shall take effect on
8 January 1, 2020. The remaining provisions of Sec. 1 shall take effect on
9 July 1, 2019.

10 (b) In Sec. 4, 21 V.S.A. § 383, the amendments to subdivisions (2)(G), (H),
11 and (I) shall take effect on January 1, 2020. The remaining provisions of
12 Sec. 4 shall take effect on July 1, 2019.

13 ~~(c) The remaining sections of this act shall take effect on July 1, 2019.~~

~~Sec. 1, 21 V.S.A. § 384 is amended to read:~~

~~§ 384. EMPLOYMENT; WAGES~~

~~(a)(1) An employer shall not employ any employee at a rate of less than \$9.15. Beginning on January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning on January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than \$10.50, and beginning \$10.78. Beginning on January 1, 2019 2020, an employer shall not employ any employee at a rate of less than \$11.50. Beginning on January 1, 2021, an employer shall not employ any employee at a rate of less than \$12.25. Beginning on January 1, 2022, an employer shall not employ any employee at a rate of less than \$13.10. Beginning on January 1, 2023, an employer shall not employ any employee at a rate of less than \$14.05. Beginning on January 1, 2024, an employer shall not employ any employee at a rate of less than \$15.00, and on each subsequent~~

~~January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01.~~

~~(2) An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the minimum wage. As used in this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service.~~

~~(3) If the minimum wage rate established by the U.S. government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the U.S. government.~~

~~***~~

~~(e)(1) A tip shall be the sole property of the employee or employees to whom it was paid, given, or left. An employer that permits patrons to pay tips by credit card shall pay an employee the full amount of the tip that the customer indicated, without any deductions for credit card processing fees or costs that may be charged to the employer by the credit card company.~~

~~(2) An employer shall not collect, deduct, or receive any portion of a tip left for an employee or credit any portion of a tip left for an employee against the wages due to the employee pursuant to subsection (a) of this section.~~

~~(3) This subsection shall not be construed to prohibit the pooling of tips among service or tipped employees as defined pursuant to subsection (a) of this section.~~

~~Sec. 2. 21 V.S.A. § 383 is amended to read:~~

~~§ 383. DEFINITIONS~~

~~Terms used in this subchapter have the following meanings. As used in this subchapter, unless a different meaning is clearly apparent from the language or context:~~

~~(1) "Commissioner," means the Commissioner of Labor or designee.~~

~~(2) "Employee," means any individual employed or permitted to work by an employer except:~~

~~(G) taxi cab/taxical drivers;~~

~~(H) outside salespersons; and~~

~~(I) secondary school students under 18 years of age working during all or any part of the school year or regular vacation periods. As used in this subdivision (2)(I), "regular vacation periods" does not include the period between two successive academic years.~~

~~(3) "Occupation," means an industry, trade, or business or branch thereof, or a class of work in which workers are gainfully employed.~~

~~(4) "Tip" means a sum of money gratuitously and voluntarily left by a customer for service, or indicated on a bill or charge statement, to be paid to a service or tipped employee for directly and personally serving the customer in a hotel, motel, tourist place, or restaurant. An employer-mandated service charge shall not be considered a tip.~~

~~Sec. 3. CHILD CARE FINANCIAL ASSISTANCE PROGRAM; SLIDING SCALE~~

~~To the extent funds are appropriated, the Commissioner for Children and Families shall amend the Department for Children and Families' Child Care Financial Assistance Program's sliding fee scale in order to:~~

~~(1) adjust the sliding scale of the Child Care Financial Assistance Program benefit to correspond with each minimum wage increase required pursuant to this act to ensure that the benefit percentage at each new minimum wage level would not be lower than the percentage applied under the former minimum wage; and~~

~~(2) adjust the Child Care Financial Assistance Program rate paid to providers on behalf of families in a manner that offsets the estimated increased cost of child care in Vermont resulting from the increase in the minimum wage required pursuant to this act.~~

~~Sec. 4. MINIMUM WAGE; ADJUSTMENT FOR INFLATION; REPORT~~

~~On or before January 15, 2023, the Office of Legislative Council and the Joint Fiscal Office shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding potential mechanisms for indexing the minimum wage established pursuant to 21 V.S.A. § 384 to inflation after 2024. In particular, the report shall:~~

~~(1) identify and examine mechanisms that other jurisdictions use to index their minimum wages to inflation and the potential benefits and disadvantages of each mechanism; and~~

~~(2) Identify and examine any alternative mechanisms to index the minimum wage to inflation, including alternative measures of inflation, and the potential benefits and disadvantages of each mechanism.~~

~~Sec. 5. TIPPED AND STUDENT MINIMUM WAGE STUDY
COMMITTEE; STUDY; REPORT~~

~~(a) Creation. There is created the tipped and student minimum wage study committee to examine the effects of increasing or eliminating the basic wage rate for tipped employees in Vermont.~~

~~(b) Membership. The Committee shall be composed of the following members:~~

~~(1) one member appointed by the Speaker of the House;~~

~~(2) one member appointed by the Committee on Committees;~~

~~(3) the Commissioner of Labor or designee;~~

~~(4) the Commissioner for Children and Families or designee;~~

~~(5) one member representing employers, jointly appointed by the Speaker of the House and the Committee on Committees; and~~

~~(6) one member representing workers, jointly appointed by the Speaker of the House and the Committee on Committees.~~

~~(c) Powers and duties. The Committee shall study the effects of increasing or eliminating the basic wage rate for tipped employees and of eliminating the subminimum wage for secondary school students during the school year, including the following issues:~~

~~(1) the impact in states that have eliminated their subminimum wage for tipped employees on:~~

~~(A) jobs, prices, and the state economy; and~~

~~(B) the welfare of tipped workers, women, and working families with children;~~

~~(2) the impact in states that have increased their subminimum wage for tipped employees during the last 10 years on:~~

~~(A) jobs, prices, and the state economy; and~~

~~(B) the welfare of tipped workers, women, and working families with children;~~

~~(3) the projected impact in Vermont of increasing or eliminating the basic wage rate for tipped employees on:~~

~~(A) jobs, prices, and the State economy; and~~

~~(B) the welfare of tipped workers, women, and working families with children; and~~

~~(4) the projected impact in Vermont of eliminating the subminimum wage for secondary school students on jobs, prices, the State economy, and the welfare of individuals under 22 years of age.~~

~~(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Department of Labor.~~

~~(e) Report. On or before January 15, 2020, the Committee shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations, if any, for legislative action to increase or eliminate Vermont's basic wage for tipped employees.~~

~~(f) Meetings.~~

~~(1) The Commissioner of Labor shall call the first meeting of the Committee to occur on or before September 15, 2019.~~

~~(2) The Committee shall select a chair from among its members at the first meeting.~~

~~(3) A majority of the membership shall constitute a quorum.~~

~~(4) The Committee shall cease to exist on January 30, 2020.~~

~~(g) Compensation and reimbursement.~~

~~(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.~~

~~(2) Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than four meetings. These payments shall be made from monies appropriated to the Department of Labor.~~

~~§ 6. EFFECTIVE DATES~~
~~(a) In Sec. 1, 21 V.S.A. § 384, subdivision (a)(2) shall take effect on January 1, 2020. The remaining provisions of Sec. 1 shall take effect on July 1, 2019.~~
~~(b) In Sec. 2, 21 V.S.A. § 383, the amendments to subdivisions (2)(G), (H), and (I) shall take effect on January 1, 2020. The remaining provisions of Sec. 2 shall take effect on July 1, 2019.~~
~~(c) The remaining sections of this act shall take effect on July 1, 2019.~~

~~§ 6. EFFECTIVE DATES~~
~~(a) In Sec. 2, 21 V.S.A. § 383, the amendments to subdivisions (2)(G) and (I) shall take effect on January 1, 2020. The remaining provisions of Sec. 2 shall take effect on July 1, 2019.~~
~~(b) The remaining sections of this act shall take effect on July 1, 2019.~~

Sec. 1. 21 V.S.A. § 384(a) is amended to read:

~~(a)(1) An employer shall not employ any employee at a rate of less than \$9.15. Beginning on January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning on January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than \$10.50, and beginning \$10.96. Beginning on January 1, 2019 January 1, 2021, an employer shall not employ any employee at a rate of less than \$11.75. Beginning on January 1, 2022, an employer shall not employ any employee at a rate of less than \$12.55, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller; but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01.~~

~~(2) An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the minimum wage. As used in this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service.~~

~~(3) If the minimum wage rate established by the U.S. government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the U.S. government.~~

Sec. 2. TIPPED AND STUDENT MINIMUM WAGE STUDY; REPORT

On or before January 15, 2021, the Office of Legislative Council and the Joint Fiscal Office shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the potential effects of altering or eliminating the basic wage rate for tipped employees in Vermont and of eliminating the subminimum wage for secondary school students during the school year. In particular, the report shall:

(1) for states that have eliminated their tipped minimum wage, examine available research and information regarding the impact on:

(A) jobs, prices, and the state economy; and

(B) the welfare of tipped workers, women, and working families with children;

(2) for states that have increased their tipped wage during the last 10 years, examine available research and information regarding the impact on:

(A) jobs, prices, and the state economy; and

(B) the welfare of tipped workers, women, and working families with children;

(3) for states that have decoupled their tipped wage from the standard minimum wage during the last 10 years, examine available research and information regarding the impact on:

(A) jobs, prices, and the state economy; and

(B) the welfare of tipped workers, women, and working families with children;

(4) examine any available research and information regarding the projected impact in Vermont of altering or eliminating the basic wage rate for tipped employees on:

(A) jobs, prices, and the State economy; and

(B) the welfare of tipped workers, women, and working families with children;

(5) for states that have eliminated a subminimum wage for secondary school students, examine available research and information regarding the impact on:

(A) jobs, prices, and the state economy; and

(B) the welfare of individuals under 22 years of age; and

(6) for Vermont, examine available research and information regarding the projected impact in Vermont of eliminating the subminimum wage for secondary school students on:

(A) jobs, prices, and the State economy; and

(B) the welfare of individuals under 22 years of age.

*Sec. 3. WAGE AND HOUR LAWS FOR AGRICULTURAL WORKERS;
REPORT*

On or before January 15, 2021, the Office of Legislative Council shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the wage and hour laws for agricultural workers. In particular, the report shall:

(1) examine the overlapping legal requirements of Vermont's wage and hour laws, the federal Fair Labor Standards Act, and other federal employment laws with respect to agricultural employees and employers; and

(2) summarize how other states' wage and hour laws address agricultural employees and employers.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.