AMENDMENT TO RULES COMMITTEE PRINT

118–10

OFFERED BY MR. NORCROSS OF NEW JERSEY

At the end of title XVIII insert the following:

SEC. 18  . MINIMUM WAGE FOR FEDERAL CONTRACTORS

AND SUBCONTRACTORS.

(a) INCREASING THE MINIMUM WAGE FOR FEDERAL

CONTRACTORS AND SUBCONTRACTORS.—

(1) IN GENERAL.—The head of each executive

agency shall ensure that each contract and contract-

like instruments includes a clause that the con-

tractor and any subcontractor (at any tier) of such

contractor shall incorporate into lower-tier sub-

contracts. Such clause shall require that, as a condi-

tion of payment, the minimum wage to be paid to

workers employed in the performance of the contract

or any subcontract (at any tier) of the contract, in-

cluding workers whose wages are calculated pursu-

ant to special certificates issued under section 14(c)


214(c)), shall be an amount, determined by the Sec-

retary of Labor, that is not less than—
(A) after the date of enactment of this Act, $16.20;

(B) for any calendar year after calendar year 2024, the higher of—

   (i) the amount determined for the calendar year preceding such calendar year;

   or

   (ii) the amount that is equal to the product of—

      (I) the amount described under clause (i), multiplied by

      (II) the quotient obtained by dividing—

      (aa) the Consumer Price Index for Urban Wage Earners and Clerical Workers (as published by the Bureau of Labor Statistics) for the most recent month, quarter, or year available (as selected by the Secretary prior to calendar year 2024); by

      (bb) the Consumer Price Index for the same period in the year immediately preceding the
year in which such period occurred,

with such product, if not a multiple of $.05, being rounded to the nearest multiple of $.05.

(2) Higher minimum wages allowed.—

(A) Statutory minimum wages.—Nothing in this section shall be construed to prevent any applicable prevailing wage law or any law or ordinance of a State, or a subdivision thereof, from setting a higher minimum wage than that determined by the Secretary under paragraph (1).

(B) Other minimum wages.—Nothing in this section shall be construed to prevent the head of an executive agency or the President from requiring any Federal contract entered into on or after the date of the enactment of this Act to include a clause requiring that workers employed in the performance of such contract or any covered subcontract or contract-like instrument be paid at a minimum wage that exceeds the minimum wage in effect pursuant to this section.
(3) NOTICE.—Not later than 90 days before the date on which a minimum wage determined under paragraph (1)(B) for any calendar year takes effect, the Secretary shall publish such minimum wage in the Federal Register.

(b) APPLICATION TO TIPPED WORKERS.—

(1) IN GENERAL.—For workers described under subsection (a)(1) who are tipped employees within the meaning of section 3(t) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(t)), the cash wage that must be paid by an employer to such workers shall be at least—

(A) before calendar year 2023, $10.50 per hour;

(B) for calendar year 2023, 85 percent of the wage determined under subsection (a)(1) for calendar year 2023, rounded to the nearest multiple of $0.05; and

(C) for any calendar year after 2023, 100 percent of the wage in effect under subsection (a)(1) for such calendar year.

(2) INCREASE IN CASH WAGE.—In a case in which a worker does not receive a sufficient additional amount on account of tips, when combined with the hourly cash wage paid by the employer,
such that their wages are equal to the minimum wage determined under subsection (a)(1), the cash wage paid by the employer, as determined under paragraph (1) of this subsection, shall be increased such that their wages are equal to such minimum wage. If the wage required to be paid under chapter 67 of title 41, United States Code, or any other applicable law or regulation, is higher than the wage determined under subsection (a)(1), the employer shall pay additional cash wages sufficient to meet the highest wage required to be paid.

(c) Regulations and Implementation.—

(1) Regulations required.—The Secretary shall issue such regulations as necessary to implement this section. Within 60 days after the date on which the Secretary issues any such regulation, the Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to provide for inclusion in Federal procurement solicitation, contract, and contract-like instrument subject to the regulations the relevant clauses described in this section.

(2) Agency implementation.—After the date on which the Secretary issues regulations pursuant to paragraph (1), the head of each executive agency shall ensure that any contract and contract-like in-
instrument, entered into on or after the date on which such regulations take effect, complies with the requirements set forth in subsections (a) and (b) of this section.

(3) USE OF EXISTING REGULATIONS.—Any regulation issued pursuant to this section shall, to the extent practicable, incorporate any definition, principle, procedure, remedy, and enforcement process issued under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), chapter 67 of title 41, United States Code, subchapter IV of chapter 31 of title 40, United States Code, Executive Order 13658 (79 Fed. Reg. 9849; relating to establishing a minimum wage for contractors), and Executive Order 14026 (85 Fed. Reg. 22835; relating to increasing the minimum wage for contractors).

(d) ENFORCEMENT.—The Secretary shall have the authority to investigate potential violations of this section and obtain compliance.

(e) DEFINITIONS.—In this section:

(1) CONTRACT; CONTRACT-LIKE INSTRUMENT.—The terms “contract” and “contract-like instrument” have the meanings given those terms in section 23.20 of title 29, Code of Federal Regula-
tions, as in effect on the date of enactment of this Act.

(2) EXECUTIVE AGENCY.—The term “executive agency”—

(A) has the meaning such term in section 102 of title 40, United States Code; and

(B) includes a “federal agency” (as such term is defined in section 102 of title 40, United States Code).

(3) INDIAN TRIBE.—The term “Indian tribe” has the meaning given such term in section 4 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638).

(4) MICRO-PURCHASE THRESHOLD.—The term “micro-purchase threshold” has the meaning given that term in section 1902(a) of title 41, United States Code.

(5) SECRETARY.—The term “Secretary” means the Secretary of Labor.

(6) STATE.—The term “State” means each State of the United States, the District of Columbia, each commonwealth, territory, or possession of the United States, and each Indian tribe.

(f) APPLICABILITY.—
(1) CONTRACTS.—This section shall apply to any new contract; new contract-like instrument; new solicitation; extension or renewal of an existing contract or contract-like instrument; and exercise of an option on an existing contract or contract-like instrument entered into on or after the date of the enactment of this Act, if—

(A) it is—

(i) a procurement contract or contract-like instrument for services or construction;

(ii) a contract or contract-like instrument for services covered by chapter 67 of title 41, United States Code;

(iii) a contract or contract-like instrument for concessions, including any concessions contract excluded by Department of Labor regulations under section 4.133(b) of title 29, Code of Federal Regulations;

(iv) a contract or contract-like instrument entered into with the Federal Government in connection with Federal property or lands and related to offering services for Federal employees, their dependents, or the general public; or
(v) fully or partially funded by grants or loans from the Federal Government; and

(B) the wages of workers under the contract are governed by the Fair Labor Standards Act, chapter 67 of title 41, United States Code, or subchapter IV of chapter 31 of title 40, United States Code.

(2) CONTRACT THRESHOLD.—For any contract or contract-like instrument covered by chapter 67 of title 41, United States Code, or subchapter IV of chapter 31 of title 40, United States Code, this section shall apply only to a contract or contract-like instrument at the threshold specified in those statutes. In a case in which the wage of a worker is governed by the Fair Labor Standards Act of 1938, this section applies only to a contract or contract-like instrument that exceeds the micro-purchase threshold, unless expressly made subject to this section as the Secretary sees fit.

(3) EXCEPTION.—This section shall not apply with respect to the following:

(A) A self-determination contract (as such term is defined in section 4 of the Indian Self-
Determination and Education Assistance Act (Public Law 93-638)).

(B) A contract or contract-like instrument excluded by the regulations issued pursuant to subsection (c)(1).