

SENATE FLOOR AMENDMENT

Second Reading

BY SENATOR Moreno

1 Amend the Business, Labor, and Technology Committee Report, dated
2 April 15, 2019, page 1, lines 11 and 12, strike "LESS THAN OR".

3 Page 3 of the report, line 9, strike "RATES" and substitute "RATES, WITH
4 THE EXCEPTION OF RATES FOR AN ELIGIBLE NURSING FACILITY PROVIDER
5 AS DEFINED IN SECTION 25.5-6-201 (15.5)".

6 Page 3 of the report, after line 15 insert:

7 "Page 8 of the reengrossed bill, after line 10 insert:

8 **"SECTION 6.** In Colorado Revised Statutes, 25.5-6-201, **add**
9 (15.5) and (20.5) as follows:

10 **25.5-6-201. Special definitions relating to nursing facility**
11 **reimbursement.** As used in this part 2, unless the context otherwise
12 requires:

13 (15.5) "ELIGIBLE NURSING FACILITY PROVIDER" MEANS A NURSING
14 FACILITY PROVIDER THAT IS LOCATED:

15 (a) WITHIN THE JURISDICTION OF A LOCAL GOVERNMENT THAT HAS
16 INCREASED ITS LOCAL MINIMUM WAGE ABOVE THE STATEWIDE MINIMUM
17 WAGE; OR

18 (b) ADJACENT TO A LOCAL GOVERNMENT THAT HAS INCREASED ITS
19 LOCAL MINIMUM WAGE ABOVE THE STATEWIDE MINIMUM WAGE AND THE
20 NURSING FACILITY HAS VOLUNTARILY AGREED TO RAISE THE WAGE OF ALL
21 EMPLOYEES TO THE SAME AMOUNT AND IN THE SAME MANNER AS THE
22 ADJACENT LOCAL GOVERNMENT.

23 (20.5) "LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT" MEANS
24 A SUPPLEMENTAL PAYMENT TO AN ELIGIBLE NURSING FACILITY PROVIDER
25 THAT IS SUBJECT TO AVAILABLE APPROPRIATIONS AND NOT A RATE
26 ENHANCEMENT.

27 **SECTION 7.** In Colorado Revised Statutes, **add** 25.5-6-208 as
28 follows:

29 **25.5-6-208. Nursing facility provider reimbursement - rules -**
30 **definition.** (1) (a) THE EXECUTIVE DIRECTOR SHALL, BY RULE, ESTABLISH
31 A PROCESS FOR ELIGIBLE NURSING FACILITY PROVIDERS TO APPLY FOR A
32 LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT WHENEVER A LOCAL
33 GOVERNMENT INCREASES ITS MINIMUM WAGE ABOVE THE STATEWIDE
34 MINIMUM WAGE. IF A LOCAL GOVERNMENT INCREASES ITS MINIMUM WAGE
35 ABOVE THE STATEWIDE MINIMUM WAGE, THE GENERAL ASSEMBLY SHALL
36 APPROPRIATE ENOUGH MONEY TO THE STATE DEPARTMENT TO COVER THE

1 LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT FOR ALL ELIGIBLE
2 NURSING FACILITY PROVIDERS. ANY PAYMENT MADE PURSUANT TO THIS
3 SECTION MUST NOT OCCUR UNTIL THE LOCAL GOVERNMENT MINIMUM
4 WAGE LAW TAKES EFFECT.

5 (b) THE RULES MUST PROVIDE:

6 (I) THAT WAGE ENHANCEMENT PAYMENTS ARE AVAILABLE TO ANY
7 ELIGIBLE NURSING FACILITY PROVIDER; AND

8 (II) THE FORM AND MANNER IN WHICH AN ELIGIBLE NURSING
9 FACILITY PROVIDER MAY APPLY TO THE STATE DEPARTMENT FOR WAGE
10 ENHANCEMENT PAYMENTS. THE FORM MUST REQUIRE THE ELIGIBLE
11 NURSING FACILITY PROVIDER TO DEMONSTRATE THE DIFFERENCE BETWEEN
12 THE ACTUAL WAGES OF NURSING FACILITY PROVIDER EMPLOYEES AT THE
13 TIME THE LOCAL GOVERNMENT WAGE INCREASE GOES INTO EFFECT AND
14 THE LOCALLY ENACTED MINIMUM WAGE.

15 (2) SUBJECT TO AVAILABLE APPROPRIATIONS, A LOCAL MINIMUM
16 WAGE ENHANCEMENT PAYMENT SHALL BE CALCULATED AND PAID TO
17 ELIGIBLE NURSING FACILITY PROVIDERS BY DETERMINING THE TOTAL
18 AMOUNT OF FUNDING NEEDED TO INCREASE THE MINIMUM WAGE OF ALL
19 EMPLOYEES AT AN ELIGIBLE NURSING FACILITY PROVIDER TO THE LOCALLY
20 ENACTED MINIMUM WAGE MULTIPLIED BY THE FACTOR OF THE MEDICAID
21 CENSUS OF EACH PROVIDER.

22 (3)(a) SUBJECT TO AVAILABLE APPROPRIATIONS, FOR THE PURPOSE
23 OF REIMBURSING AN ELIGIBLE NURSING FACILITY PROVIDER FOR A LOCAL
24 MINIMUM WAGE ENHANCEMENT PAYMENT, THE STATE DEPARTMENT SHALL
25 ESTABLISH AND ANNUALLY READJUST A PAYMENT SCHEDULE.

26 (b) TO REQUEST A LOCAL MINIMUM WAGE ENHANCEMENT
27 PAYMENT, AN ELIGIBLE NURSING FACILITY SHALL ANNUALLY SUBMIT:

28 (I) THE DIFFERENCE BETWEEN THE ACTUAL WAGE RATE OF
29 NURSING FACILITY PROVIDER EMPLOYEES AND THE LOCAL MINIMUM WAGE
30 RATE APPLICABLE TO THOSE NURSING FACILITY PROVIDER'S EMPLOYEES
31 THAT ARE ELIGIBLE FOR AN INCREASED LOCAL MINIMUM WAGE RATE. A
32 NURSING FACILITY PROVIDER'S EMPLOYEE'S WAGE RATE MUST EQUAL OR
33 EXCEED THE MINIMUM WAGE RATE REQUIRED BY STATE OR FEDERAL LAW.

34 (II) THE NUMBER OF ELIGIBLE NURSING FACILITY PROVIDER'S
35 EMPLOYEES BY PROVIDER, CURRENT WAGE RATE OF THE EMPLOYEES, AND
36 WAGE RATE OF THE EMPLOYEES AFTER A LOCAL MINIMUM WAGE LAW GOES
37 INTO EFFECT.

38 (c) AN ELIGIBLE NURSING FACILITY PROVIDER SHALL SUBMIT AN
39 APPLICATION WITH THE INFORMATION REQUIRED IN THIS SECTION FOR
40 EACH YEAR IN WHICH THE ELIGIBLE NURSING FACILITY PROVIDER SEEKS A
41 LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT.

42 (4) A LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT MADE
43 PURSUANT TO THIS SECTION IS IN EFFECT AS LONG AS THE LOCAL MINIMUM

1 WAGE APPLICABLE TO ELIGIBLE NURSING FACILITY PROVIDER EMPLOYEES
2 PERFORMING WORK WITHIN THE LOCAL JURISDICTION EXCEEDS THE
3 STATEWIDE MINIMUM WAGE.
4 (5) (a) AN ELIGIBLE NURSING FACILITY PROVIDER THAT RECEIVES
5 A LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT PURSUANT TO THIS
6 SECTION SHALL:
7 (I) USE THE PAYMENTS ONLY TO INCREASE THE COMPENSATION
8 FOR ELIGIBLE NURSING FACILITY PROVIDER EMPLOYEES AND NOT FOR ANY
9 OTHER EXPENDITURES; AND
10 (II) TRACK AND REPORT HOW THE PAYMENTS ARE USED FOR
11 ELIGIBLE NURSING FACILITY EMPLOYEES ON AN ANNUAL BASIS.
12 (b) THE EXECUTIVE DIRECTOR MAY REQUEST INFORMATION FROM
13 A NURSING FACILITY PROVIDER THAT RECEIVES A LOCAL MINIMUM WAGE
14 ENHANCEMENT PAYMENT UNDER THIS SECTION REGARDING THE USE OF
15 SUCH PAYMENT.
16 (c) IF AN ELIGIBLE NURSING FACILITY PROVIDER DOES NOT USE ONE
17 HUNDRED PERCENT OF THE LOCAL MINIMUM WAGE ENHANCEMENT
18 PAYMENT RECEIVED PURSUANT TO THIS SECTION TO INCREASE THE
19 COMPENSATION FOR THE ELIGIBLE NURSING FACILITY PROVIDER'S
20 EMPLOYEES, THE EXECUTIVE DIRECTOR MAY RECOUP ANY OR ALL OF THE
21 IMPROPERLY USED PAYMENTS. THE EXECUTIVE DIRECTOR MAY
22 PROMULGATE RULES FOR THE NOTIFICATION, VIOLATION, AND PROCESS
23 REGARDING AN ELIGIBLE NURSING FACILITY'S IMPROPER USE OF LOCAL
24 MINIMUM WAGE ENHANCEMENT PAYMENTS.
25 (6) PAYMENTS RECEIVED UNDER THIS SECTION SHALL OFFSET
26 COSTS REPORTED ON THE MED-13 COST REPORT WHEN CALCULATING
27 NURSING FACILITY PROVIDER PER DIEM REIMBURSEMENT UNDER 10 CCR
28 2505."

29 Renumber succeeding section accordingly."

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