

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 19-0166.01 Yelana Love x2295

HOUSE BILL 19-1210

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A BILL FOR AN ACT

101 **CONCERNING THE REPEAL OF THE PROHIBITIONS ON A LOCAL**
102 **GOVERNMENT ESTABLISHING MINIMUM WAGE LAWS WITHIN ITS**
103 **JURISDICTION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill allows a unit of local government to enact laws establishing a minimum wage within its jurisdiction.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 30, 2019

HOUSE
3rd Reading Unamended
March 11, 2019

HOUSE
Amended 2nd Reading
March 8, 2019

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Despite a statewide minimum wage rate, many Colorado
5 workers struggle to afford the basic necessities of life;

6 (b) The cost of living can vary significantly from one community
7 to another in Colorado;

8 (c) Addressing the minimum wage needs of workers is a matter
9 of both state and local concern;

10 (d) Local minimum wage laws that can exceed the minimum wage
11 required by state law offer local governments a way to address the
12 particular minimum wage needs of workers and businesses in their
13 jurisdiction;

14 (e) Studies of local minimum wage laws have shown that such
15 laws can increase earnings for workers without negatively affecting
16 employment;

17 (f) While state minimum wage laws can set a useful floor for
18 workers and businesses, local governments should be able to listen to
19 their residents and enact local minimum wage laws that better address
20 their unique needs; and

21 (g) Ensuring that workers in Colorado can support themselves and
22 their families benefits the larger economy and well-being of the state.

23 (2) Therefore, it is the intent of the general assembly to address
24 the needs of workers across the state by empowering local governments
25 to adopt local minimum wage laws requiring a higher minimum wage
26 than the state when local governments determine that such laws are in the
27 best interest of their jurisdiction.

1 enact any jurisdiction-wide law or ordinance with respect to minimum
2 wages unless specifically authorized to do so by this article; except that
3 a unit of local government may set minimum wages paid to its own
4 employees.

5 (II.5) Notwithstanding the provisions of subparagraph (II) of this
6 paragraph (g), any local government regulation or law pertaining to
7 minimum wages in effect as of January 1, 1999, shall remain in full force
8 and effect until such law is repealed by the local government entity that
9 enacted the law.

10 (III) If it is determined by the officer or agency responsible for
11 distributing federal moneys to a local government that compliance with
12 this paragraph (g) may cause denial of federal moneys that would
13 otherwise be available or would otherwise be inconsistent with
14 requirements of federal law, this section shall be suspended, but only to
15 the extent necessary to prevent denial of the moneys or to eliminate the
16 inconsistency with federal requirements.

17 **SECTION 4.** In Colorado Revised Statutes, 8-6-101, **amend** (3);
18 **repeal** (2); and **add** (4), (5), (6), (7), (8), (9), and (10), as follows:

19 **8-6-101. Legislative declaration - minimum wage of workers**
20 **- authority of a local government to enact minimum wage laws -**
21 **enforcement - definition.** (2) ~~The general assembly hereby finds and~~
22 ~~determines that issues related to the wages of workers in Colorado have~~
23 ~~important statewide ramifications for the labor force in this state. The~~
24 ~~general assembly, therefore, declares that the minimum wages of workers~~
25 ~~in this state are a matter of statewide concern.~~

26 (3) (a) (I) ~~No unit of local government, whether by acting~~
27 ~~through its governing body or an initiative, a referendum, or any other~~

1 ~~process, shall enact any jurisdiction-wide laws with respect to minimum~~
2 ~~wages; except that a unit of local government may set minimum wages~~
3 ~~paid to its own employees~~ NOTWITHSTANDING ANY OTHER PROVISION OF
4 LAW, A LOCAL GOVERNMENT MAY ENACT THROUGH ITS GOVERNING BODY
5 OR, WHEN AVAILABLE, THROUGH ITS INITIATIVE OR REFERENDUM POWERS,
6 A LAW ESTABLISHING MINIMUM WAGES FOR INDIVIDUALS PERFORMING, OR
7 EXPECTED TO PERFORM, FOUR OR MORE HOURS OF WORK FOR AN
8 EMPLOYER IN ANY GIVEN WEEK WITHIN THE GEOGRAPHIC BOUNDARIES OF
9 THE LOCAL GOVERNMENT'S JURISDICTION. MINIMUM WAGES ESTABLISHED
10 IN ACCORDANCE WITH THIS SECTION MAY EXCEED THE STATEWIDE
11 MINIMUM WAGE ESTABLISHED IN ACCORDANCE WITH SECTION 15 OF
12 ARTICLE XVIII OF THE STATE CONSTITUTION, ANY OTHER MINIMUM WAGE
13 ESTABLISHED BY STATE LAW, OR ANY MINIMUM WAGE ESTABLISHED BY
14 FEDERAL LAW; EXCEPT THAT A LOCAL GOVERNMENT THAT ENACTS A
15 MINIMUM WAGE IN ACCORDANCE WITH THIS SUBSECTION (3) SHALL
16 PROVIDE A TIP OFFSET FOR EMPLOYEES OF ANY BUSINESS OR ENTERPRISE
17 THAT PREPARES AND OFFERS FOR SALE FOOD OR BEVERAGES FOR
18 CONSUMPTION EITHER ON OR OFF THE PREMISES EQUAL TO THE TIP OFFSET
19 PROVIDED IN SECTION 15 OF ARTICLE XVIII OF THE STATE CONSTITUTION.
20 THE TIP OFFSET APPLIES ONLY TO EMPLOYEES WHO REGULARLY RECEIVE
21 TIPS AND ONLY WHEN A TIP OFFSET IS PERMITTED BY STATE LAW. A LOCAL
22 GOVERNMENT SHALL NOT INCLUDE IN ITS MINIMUM WAGE LAW TIME SPENT
23 IN THE LOCAL GOVERNMENT'S JURISDICTION BY AN EMPLOYEE SOLELY FOR
24 THE PURPOSE OF TRAVELING THROUGH THE LOCAL GOVERNMENT'S
25 JURISDICTION FROM A POINT OF ORIGIN OUTSIDE OF THE LOCAL
26 GOVERNMENT'S BOUNDARIES TO A DESTINATION OUTSIDE OF THE LOCAL
27 GOVERNMENT'S BOUNDARIES, WITH NO EMPLOYMENT-RELATED OR

1 COMMERCIAL STOPS IN THE LOCAL GOVERNMENT'S JURISDICTION, EXCEPT
2 FOR REFUELING OR THE EMPLOYEE'S PERSONAL MEALS OR ERRANDS.

3 (II) ALL ADULT EMPLOYEES AND EMANCIPATED MINORS, WHETHER
4 EMPLOYED ON AN HOURLY, PIECEWORK, COMMISSION, TIME, TASK, OR
5 OTHER BASIS, SHALL BE PAID NOT LESS THAN THE MINIMUM WAGE
6 ENACTED BY THE LOCAL GOVERNMENT THROUGH ITS GOVERNING BODY OR
7 THROUGH INITIATIVE OR REFERENDUM POWERS.

8 (b) ~~Notwithstanding the provisions of paragraph (a) of this~~
9 ~~subsection (3), any local government regulation or law pertaining to~~
10 ~~minimum wages in effect as of January 1, 1999, shall remain in full force~~
11 ~~and effect until such law is repealed by the local government entity that~~
12 ~~enacted the law.~~ A LOCAL GOVERNMENT THAT ENACTS A MINIMUM WAGE
13 LAW IN ACCORDANCE WITH THIS SUBSECTION (3) MAY ADOPT PROVISIONS
14 FOR THE LOCAL ENFORCEMENT OF THE LAW, INCLUDING:

15 (I) A PRIVATE RIGHT OF ACTION TO ENFORCE THE REQUIREMENT IN
16 A COURT OF COMPETENT JURISDICTION;

17 (II) AT LEVELS THAT MAY EXCEED THOSE SET BY STATE LAW:

18 (A) FINES AND PENALTIES;

19 (B) PAYMENT OF UNPAID WAGES OR UNPAID OVERTIME BASED ON
20 THOSE WAGES;

21 (C) LIQUIDATED DAMAGES;

22 (D) INTEREST;

23 (E) COSTS AND ATTORNEY FEES PAYABLE TO ANY AFFECTED
24 PREVAILING EMPLOYEE; AND

25 (F) COSTS AND ATTORNEY FEES PAYABLE TO THE LOCAL
26 GOVERNMENT OR ITS DESIGNATED ENFORCEMENT DEPARTMENTS;

27 (III) PROCEDURES FOR THE LOCAL GOVERNMENT TO ORDER ANY

1 APPROPRIATE OR EQUITABLE RELIEF; AND

2 (IV) OTHER PROVISIONS NECESSARY FOR THE EFFICIENT AND
3 COST-EFFECTIVE ENFORCEMENT OF A LOCAL MINIMUM WAGE LAW.

4 (c) (I) ~~If it is determined by the officer or agency responsible for~~
5 ~~distributing federal moneys to a local government that compliance with~~
6 ~~this subsection (3) may cause denial of federal moneys that would~~
7 ~~otherwise be available or would otherwise be inconsistent with~~
8 ~~requirements of federal law, this section shall be suspended, but only to~~
9 ~~the extent necessary to prevent denial of the moneys or to eliminate the~~
10 ~~inconsistency with federal requirements.~~ EXCEPT AS PROVIDED IN
11 SUBSECTION (3)(c)(II) OF THIS SECTION, A LOCAL MINIMUM WAGE
12 ADOPTED BY A COUNTY IS ONLY ENFORCEABLE WITHIN THE
13 UNINCORPORATED PORTION OF THE COUNTY.

14 (II) ONE OR MORE CONTIGUOUS COUNTIES AND ANY MUNICIPALITY
15 WITHIN EACH COUNTY MAY ENTER INTO INTERGOVERNMENTAL
16 AGREEMENTS TO ESTABLISH A LOCAL MINIMUM WAGE LAW WITHIN THE
17 UNINCORPORATED PORTION OF EACH COUNTY AND WITHIN EACH
18 MUNICIPALITY. AN INTERGOVERNMENTAL AGREEMENT ENTERED INTO IN
19 ACCORDANCE WITH THIS SUBSECTION (3)(c) MUST ESTABLISH THE MANNER
20 IN WHICH A LOCAL GOVERNMENT MINIMUM WAGE LAW WILL BE ENFORCED
21 AND ADMINISTERED.

22 (d) BEFORE ENACTING A MINIMUM WAGE LAW, A LOCAL
23 GOVERNMENT SHALL CONSULT WITH SURROUNDING LOCAL GOVERNMENTS
24 AND ENGAGE STAKEHOLDERS, INCLUDING CHAMBERS OF COMMERCE,
25 SMALL AND LARGE BUSINESSES, BUSINESSES THAT EMPLOY TIPPED
26 WORKERS, WORKERS, LABOR UNIONS, AND COMMUNITY GROUPS.

27 (4) FOR PURPOSES OF THIS SECTION, "LOCAL GOVERNMENT" MEANS

1 A:

- 2 (a) CITY;
- 3 (b) HOME RULE CITY;
- 4 (c) TOWN;
- 5 (d) TERRITORIAL CHARTER CITY;
- 6 (e) CITY AND COUNTY;
- 7 (f) COUNTY; OR
- 8 (g) HOME RULE COUNTY.

9 (5) IF ANY PROVISION OF THIS SECTION IS FOUND BY A COURT OF
10 COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL, THE REMAINING
11 PROVISIONS OF THIS SECTION ARE VALID, UNLESS IT APPEARS TO THE
12 COURT THAT THE VALID PROVISIONS OF THIS SECTION ARE SO ESSENTIALLY
13 AND INSEPARABLY CONNECTED WITH, AND SO DEPENDENT UPON, THE VOID
14 PROVISION THAT IT CANNOT BE PRESUMED THE LEGISLATURE WOULD HAVE
15 ENACTED THE VALID PROVISIONS WITHOUT THE VOID ONE; OR UNLESS THE
16 COURT DETERMINES THAT THE VALID PROVISIONS, STANDING ALONE, ARE
17 INCOMPLETE AND ARE INCAPABLE OF BEING EXECUTED IN ACCORDANCE
18 WITH THE LEGISLATIVE INTENT.

19 (6) A LOCAL GOVERNMENT THAT ENACTS A LOCAL MINIMUM WAGE
20 LAW PURSUANT TO THIS SECTION MUST SPECIFY THAT AN INCREASE IN THE
21 LOCAL MINIMUM WAGE MUST TAKE EFFECT ON THE SAME DATE AS A
22 SCHEDULED INCREASE TO THE STATEWIDE MINIMUM WAGE REQUIRED
23 UNDER SECTION 15 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

24 (7) IF A LOCAL GOVERNMENT ENACTS A LOCAL MINIMUM WAGE
25 LAW REQUIRING A MINIMUM WAGE THAT EXCEEDS THE STATEWIDE
26 MINIMUM WAGE, THE LOCAL GOVERNMENT MAY ONLY INCREASE THE
27 LOCAL MINIMUM WAGE EACH YEAR BY UP TO ONE DOLLAR AND

1 SEVENTY-FIVE CENTS OR FIFTEEN PERCENT, WHICHEVER IS HIGHER, UNTIL
2 THE LOCAL MINIMUM WAGE REACHES THE AMOUNT ENACTED BY THE
3 LOCAL GOVERNMENT.

4 (8) (a) By July 1, 2021, the executive director of the
5 department of labor and employment shall issue a written
6 report regarding local minimum wage laws in the state. The
7 report must include the location, nature, and scope of enacted
8 local minimum wage laws. To the extent feasible, the executive
9 director shall also include in the report economic data,
10 including jobs, earnings, and sales tax revenue, in the
11 jurisdiction of any local government that has enacted a local
12 minimum wage law pursuant to this section, as well as data for
13 neighboring jurisdictions, relevant regions, and the state. The
14 report may include recommendations for possible improvements
15 to this section.

16 (b) The executive director shall update the report by July
17 1 each year thereafter if an additional local government
18 enacts a minimum wage law after July 1 of the year prior.

19 (c) (I) The executive director shall submit the report
20 required in this subsection (8) to the senate local government
21 committee and the house of representatives transportation and
22 local government committee, or their successor committees.

23 (II) Notwithstanding section 24-1-136 (11)(a)(I), the report
24 required in this subsection (8) continues indefinitely.

25 (9) (a) The executive director of the department of labor
26 and employment shall notify the executive director of the
27 department of health care policy and financing if a local

1 GOVERNMENT ENACTS A MINIMUM WAGE THAT EXCEEDS THE STATEWIDE
2 MINIMUM WAGE.

3 (b) IF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH
4 CARE POLICY AND FINANCING RECEIVES NOTICE PURSUANT TO SUBSECTION
5 (9)(a) OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL, AS SOON AS
6 PRACTICABLE, SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE WITH
7 RECOMMENDATIONS ABOUT WHETHER PROVIDER RATES, WITH THE
8 EXCEPTION OF RATES FOR AN ELIGIBLE NURSING FACILITY PROVIDER AS
9 DEFINED IN SECTION 25.5-6-201 (15.5), NEED TO BE INCREASED TO
10 ACCOMMODATE THE LOCAL GOVERNMENT'S MINIMUM WAGE INCREASE
11 AND IF ESTABLISHING A FUND TO PASS THROUGH THOSE INCREASES TO
12 FACILITIES IN THE JURISDICTION OF THE LOCAL GOVERNMENT THAT HAS
13 RAISED THE MINIMUM WAGE IS NECESSARY.

14 (c) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT
15 REQUIRED IN THIS SUBSECTION (9) CONTINUES INDEFINITELY.

16 (10) (a) IF AT ANY POINT TEN PERCENT OF LOCAL GOVERNMENTS
17 IN THE STATE HAVE ENACTED A LOCAL MINIMUM WAGE LAW PURSUANT TO
18 THIS SECTION, A LOCAL GOVERNMENT THAT HAS NOT PREVIOUSLY
19 ENACTED A LOCAL MINIMUM WAGE LAW SHALL NOT ENACT A LOCAL
20 MINIMUM WAGE LAW PURSUANT TO THIS SECTION UNTIL THE GENERAL
21 ASSEMBLY HAS AMENDED THIS SECTION TO AUTHORIZE ADDITIONAL LOCAL
22 GOVERNMENTS TO ENACT LOCAL MINIMUM WAGE LAWS. A LOCAL
23 GOVERNMENT THAT ENACTED A LOCAL MINIMUM WAGE LAW PRIOR TO THE
24 POINT AT WHICH TEN PERCENT OF LOCAL GOVERNMENTS HAVE ENACTED
25 A LOCAL MINIMUM WAGE LAW MAY CONTINUE TO AMEND THAT LAW.

26 (b) FOR PURPOSES OF DETERMINING WHETHER TEN PERCENT OF
27 LOCAL GOVERNMENTS IN THE STATE HAVE ENACTED A LOCAL MINIMUM

1 WAGE LAW PURSUANT TO THIS SECTION, WHEN A COUNTY ENACTS A LOCAL
2 MINIMUM WAGE LAW, IF A LOCAL MINIMUM WAGE LAW IS ENACTED BY ANY
3 LOCAL GOVERNMENT LOCATED WITHIN THAT COUNTY, ONLY THE
4 COUNTY'S MINIMUM WAGE LAW COUNTS TOWARD THE CALCULATION OF
5 THE TEN PERCENT. IF LOCAL GOVERNMENTS ENTER INTO AN
6 INTERGOVERNMENTAL AGREEMENT ON THE ENFORCEMENT OR
7 ADMINISTRATION OF LOCAL MINIMUM WAGE POLICIES, THAT WILL ONLY BE
8 COUNTED AS ONE LOCAL MINIMUM WAGE FOR DETERMINING THE
9 CALCULATION OF THE TEN PERCENT.

10 **SECTION 5.** In Colorado Revised Statutes, 8-12-102, **repeal** (2)
11 as follows:

12 **8-12-102. Legislative declaration.** (2) (a) ~~The general assembly~~
13 ~~hereby finds and determines that certain issues related to youth~~
14 ~~employment in Colorado have important statewide ramifications for the~~
15 ~~labor force in this state. In particular, the general assembly declares that~~
16 ~~the issue of minimum wages, as it relates to youth employment in this~~
17 ~~state, is a matter of statewide concern.~~

18 (b) ~~No unit of local government, whether by acting through its~~
19 ~~governing body or an initiative, a referendum, or any other process, shall~~
20 ~~enact any jurisdiction-wide law or ordinance with respect to the minimum~~
21 ~~wages earned by young people unless otherwise specifically authorized~~
22 ~~to do so by this article; except that a unit of local government may enact~~
23 ~~such provisions with respect to its own employees.~~

24 **SECTION 6.** In Colorado Revised Statutes, **25.5-6-201,** **add**
25 **(15.5) and (20.5)** as follows:

26 **25.5-6-201. Special definitions relating to nursing facility**
27 **reimbursement.** As used in this part 2, unless the context otherwise

1 requires:

2 (15.5) "ELIGIBLE NURSING FACILITY PROVIDER" MEANS A NURSING
3 FACILITY PROVIDER THAT IS LOCATED:

4 (a) WITHIN THE JURISDICTION OF A LOCAL GOVERNMENT THAT HAS
5 INCREASED ITS LOCAL MINIMUM WAGE ABOVE THE STATEWIDE MINIMUM
6 WAGE; OR

7 (b) ADJACENT TO A LOCAL GOVERNMENT THAT HAS INCREASED ITS
8 LOCAL MINIMUM WAGE ABOVE THE STATEWIDE MINIMUM WAGE AND THE
9 NURSING FACILITY HAS VOLUNTARILY AGREED TO RAISE THE WAGE OF ALL
10 EMPLOYEES TO THE SAME AMOUNT AND IN THE SAME MANNER AS THE
11 ADJACENT LOCAL GOVERNMENT.

12 (20.5) "LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT" MEANS
13 A SUPPLEMENTAL PAYMENT TO AN ELIGIBLE NURSING FACILITY PROVIDER
14 THAT IS SUBJECT TO AVAILABLE APPROPRIATIONS AND NOT A RATE
15 ENHANCEMENT.

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

18 **25.5-6-208. Nursing facility provider reimbursement - rules -**
19 **definition.** (1) (a) THE EXECUTIVE DIRECTOR SHALL, BY RULE, ESTABLISH
20 A PROCESS FOR ELIGIBLE NURSING FACILITY PROVIDERS TO APPLY FOR A
21 LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT WHENEVER A LOCAL
22 GOVERNMENT INCREASES ITS MINIMUM WAGE ABOVE THE STATEWIDE
23 MINIMUM WAGE. IF A LOCAL GOVERNMENT INCREASES ITS MINIMUM WAGE
24 ABOVE THE STATEWIDE MINIMUM WAGE, THE GENERAL ASSEMBLY SHALL
25 APPROPRIATE ENOUGH MONEY TO THE STATE DEPARTMENT TO COVER THE
26 LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT FOR ALL ELIGIBLE
27 NURSING FACILITY PROVIDERS. ANY PAYMENT MADE PURSUANT TO THIS

1 SECTION MUST NOT OCCUR UNTIL THE LOCAL GOVERNMENT MINIMUM
2 WAGE LAW TAKES EFFECT.

3 (b) THE RULES MUST PROVIDE:

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

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

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

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

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

26 (I) THE DIFFERENCE BETWEEN THE ACTUAL WAGE RATE OF
27 NURSING FACILITY PROVIDER EMPLOYEES AND THE LOCAL MINIMUM WAGE

1 RATE APPLICABLE TO THOSE NURSING FACILITY PROVIDER'S EMPLOYEES
2 THAT ARE ELIGIBLE FOR AN INCREASED LOCAL MINIMUM WAGE RATE. A
3 NURSING FACILITY PROVIDER'S EMPLOYEE'S WAGE RATE MUST EQUAL OR
4 EXCEED THE MINIMUM WAGE RATE REQUIRED BY STATE OR FEDERAL LAW.

5 (II) THE NUMBER OF ELIGIBLE NURSING FACILITY PROVIDER'S
6 EMPLOYEES BY PROVIDER, CURRENT WAGE RATE OF THE EMPLOYEES, AND
7 WAGE RATE OF THE EMPLOYEES AFTER A LOCAL MINIMUM WAGE LAW GOES
8 INTO EFFECT.

9 (c) AN ELIGIBLE NURSING FACILITY PROVIDER SHALL SUBMIT AN
10 APPLICATION WITH THE INFORMATION REQUIRED IN THIS SECTION FOR
11 EACH YEAR IN WHICH THE ELIGIBLE NURSING FACILITY PROVIDER SEEKS A
12 LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT.

13 (4) A LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT MADE
14 PURSUANT TO THIS SECTION IS IN EFFECT AS LONG AS THE LOCAL MINIMUM
15 WAGE APPLICABLE TO ELIGIBLE NURSING FACILITY PROVIDER EMPLOYEES
16 PERFORMING WORK WITHIN THE LOCAL JURISDICTION EXCEEDS THE
17 STATEWIDE MINIMUM WAGE.

18 (5) (a) AN ELIGIBLE NURSING FACILITY PROVIDER THAT RECEIVES
19 A LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT PURSUANT TO THIS
20 SECTION SHALL:

21 (I) USE THE PAYMENTS ONLY TO INCREASE THE COMPENSATION
22 FOR ELIGIBLE NURSING FACILITY PROVIDER EMPLOYEES AND NOT FOR ANY
23 OTHER EXPENDITURES; AND

24 (II) TRACK AND REPORT HOW THE PAYMENTS ARE USED FOR
25 ELIGIBLE NURSING FACILITY EMPLOYEES ON AN ANNUAL BASIS.

26 (b) THE EXECUTIVE DIRECTOR MAY REQUEST INFORMATION FROM
27 A NURSING FACILITY PROVIDER THAT RECEIVES A LOCAL MINIMUM WAGE

1 ENHANCEMENT PAYMENT UNDER THIS SECTION REGARDING THE USE OF
2 SUCH PAYMENT.

3 (c) IF AN ELIGIBLE NURSING FACILITY PROVIDER DOES NOT USE ONE
4 HUNDRED PERCENT OF THE LOCAL MINIMUM WAGE ENHANCEMENT
5 PAYMENT RECEIVED PURSUANT TO THIS SECTION TO INCREASE THE
6 COMPENSATION FOR THE ELIGIBLE NURSING FACILITY PROVIDER'S
7 EMPLOYEES, THE EXECUTIVE DIRECTOR MAY RECOUP ANY OR ALL OF THE
8 IMPROPERLY USED PAYMENTS. THE EXECUTIVE DIRECTOR MAY
9 PROMULGATE RULES FOR THE NOTIFICATION, VIOLATION, AND PROCESS
10 REGARDING AN ELIGIBLE NURSING FACILITY'S IMPROPER USE OF LOCAL
11 MINIMUM WAGE ENHANCEMENT PAYMENTS.

12 (6) PAYMENTS RECEIVED UNDER THIS SECTION SHALL OFFSET
13 COSTS REPORTED ON THE MED-13 COST REPORT WHEN CALCULATING
14 NURSING FACILITY PROVIDER PER DIEM REIMBURSEMENT UNDER 10 CCR
15 2505.

16 **SECTION 6. Act subject to petition - effective date.** This act
17 takes effect January 1, 2020; except that, if a referendum petition is filed
18 pursuant to section 1 (3) of article V of the state constitution against this
19 act or an item, section, or part of this act within the ninety-day period
20 after final adjournment of the general assembly, then the act, item,
21 section, or part will not take effect unless approved by the people at the
22 general election to be held in November 2020 and, in such case, will take
23 effect on the date of the official declaration of the vote thereon by the
24 governor.