

CHAPTER 320

LABOR AND INDUSTRY

HOUSE BILL 19-1210

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also SENATOR(S) Danielson and Moreno, Court, Fields, Foote, Ginal, Gonzales, Lee, Pettersen, Rodriguez, Story, Todd, Zenzinger.

AN ACT**CONCERNING THE REPEAL OF THE PROHIBITIONS ON A LOCAL GOVERNMENT ESTABLISHING
MINIMUM WAGE LAWS WITHIN ITS JURISDICTION.**

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

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

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

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

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

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

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

(f) While state minimum wage laws can set a useful floor for workers and businesses, local governments should be able to listen to their residents and enact

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

local minimum wage laws that better address their unique needs; and

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

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

SECTION 2. In Colorado Revised Statutes, **add** part 14 to article 1 of title 29 as follows:

PART 14
AUTHORITY OF LOCAL GOVERNMENT
TO ENACT MINIMUM WAGE

29-1-1401. Authority of a local government to enact minimum wage laws - definition. (1) A LOCAL GOVERNMENT MAY ENACT A LAW ESTABLISHING A MINIMUM WAGE FOR INDIVIDUALS PERFORMING WORK WHILE PHYSICALLY WITHIN THE LOCAL GOVERNMENT'S JURISDICTION IN ACCORDANCE WITH SECTION 8-6-101.

(2) AS USED IN THIS SECTION, "LOCAL GOVERNMENT" MEANS A:

- (a) CITY;
- (b) HOME RULE CITY;
- (c) TOWN;
- (d) TERRITORIAL CHARTER CITY;
- (e) CITY AND COUNTY;
- (f) COUNTY; OR
- (g) HOME RULE COUNTY.

SECTION 3. In Colorado Revised Statutes, 8-3-102, **amend** (1) introductory portion; and **repeal** (1)(g)(II), (1)(g)(II.5), and (1)(g)(III) as follows:

8-3-102. Legislative declaration. (1) The public policy of the state as to employment relations and collective bargaining, in the furtherance of which this ~~article~~ ARTICLE 3 is enacted, is declared to be as follows:

(g) (II) ~~No unit of local government, whether by acting through its governing body or an initiative, a referendum, or any other process, shall enact any jurisdiction-wide law or ordinance with respect to minimum wages unless specifically authorized to do so by this article; except that a unit of local government may set minimum wages paid to its own employees.~~

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

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

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

8-6-101. Legislative declaration - minimum wage of workers - authority of a local government to enact minimum wage laws - enforcement - definition.

~~(2) The general assembly hereby finds and determines that issues related to the wages of workers in Colorado have important statewide ramifications for the labor force in this state. The general assembly, therefore, declares that the minimum wages of workers in this state are a matter of statewide concern.~~

~~(3) (a) (I) No unit of local government, whether by acting through its governing body or an initiative, a referendum, or any other process, shall enact any jurisdiction-wide laws with respect to minimum wages; except that a unit of local government may set minimum wages paid to its own employees~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A LOCAL GOVERNMENT MAY ENACT THROUGH ITS GOVERNING BODY OR, WHEN AVAILABLE, THROUGH ITS INITIATIVE OR REFERENDUM POWERS, A LAW ESTABLISHING MINIMUM WAGES FOR INDIVIDUALS PERFORMING, OR EXPECTED TO PERFORM, FOUR OR MORE HOURS OF WORK FOR AN EMPLOYER IN ANY GIVEN WEEK WITHIN THE GEOGRAPHIC BOUNDARIES OF THE LOCAL GOVERNMENT'S JURISDICTION. MINIMUM WAGES ESTABLISHED IN ACCORDANCE WITH THIS SECTION MAY EXCEED THE STATEWIDE MINIMUM WAGE ESTABLISHED IN ACCORDANCE WITH SECTION 15 OF ARTICLE XVIII OF THE STATE CONSTITUTION, ANY OTHER MINIMUM WAGE ESTABLISHED BY STATE LAW, OR ANY MINIMUM WAGE ESTABLISHED BY FEDERAL LAW; EXCEPT THAT A LOCAL GOVERNMENT THAT ENACTS A MINIMUM WAGE IN ACCORDANCE WITH THIS SUBSECTION (3) SHALL PROVIDE A TIP OFFSET FOR EMPLOYEES OF ANY BUSINESS OR ENTERPRISE THAT PREPARES AND OFFERS FOR SALE FOOD OR BEVERAGES FOR CONSUMPTION EITHER ON OR OFF THE PREMISES EQUAL TO THE TIP OFFSET PROVIDED IN SECTION 15 OF ARTICLE XVIII OF THE STATE CONSTITUTION. THE TIP OFFSET APPLIES ONLY TO EMPLOYEES WHO REGULARLY RECEIVE TIPS AND ONLY WHEN A TIP OFFSET IS PERMITTED BY STATE LAW. A LOCAL GOVERNMENT SHALL NOT INCLUDE IN ITS MINIMUM WAGE LAW TIME SPENT IN THE LOCAL GOVERNMENT'S JURISDICTION BY AN EMPLOYEE SOLELY FOR THE PURPOSE OF TRAVELING THROUGH THE LOCAL GOVERNMENT'S JURISDICTION FROM A POINT OF ORIGIN OUTSIDE OF THE LOCAL GOVERNMENT'S BOUNDARIES TO A DESTINATION OUTSIDE OF THE LOCAL GOVERNMENT'S BOUNDARIES, WITH NO EMPLOYMENT-RELATED OR COMMERCIAL STOPS IN THE LOCAL GOVERNMENT'S JURISDICTION, EXCEPT FOR REFUELING OR THE EMPLOYEE'S PERSONAL MEALS OR ERRANDS.

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

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

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

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

(A) FINES AND PENALTIES;

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

(C) LIQUIDATED DAMAGES;

(D) INTEREST;

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

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

(III) PROCEDURES FOR THE LOCAL GOVERNMENT TO ORDER ANY APPROPRIATE OR EQUITABLE RELIEF; AND

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

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

(II) ONE OR MORE CONTIGUOUS COUNTIES AND ANY MUNICIPALITY WITHIN EACH COUNTY MAY ENTER INTO INTERGOVERNMENTAL AGREEMENTS TO ESTABLISH A LOCAL MINIMUM WAGE LAW WITHIN THE UNINCORPORATED PORTION OF EACH COUNTY AND WITHIN EACH MUNICIPALITY. AN INTERGOVERNMENTAL AGREEMENT

ENTERED INTO IN ACCORDANCE WITH THIS SUBSECTION (3)(c) MUST ESTABLISH THE MANNER IN WHICH A LOCAL GOVERNMENT MINIMUM WAGE LAW WILL BE ENFORCED AND ADMINISTERED.

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

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

- (a) CITY;
- (b) HOME RULE CITY;
- (c) TOWN;
- (d) TERRITORIAL CHARTER CITY;
- (e) CITY AND COUNTY;
- (f) COUNTY; OR
- (g) HOME RULE COUNTY.

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

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

(7) IF A LOCAL GOVERNMENT ENACTS A LOCAL MINIMUM WAGE LAW REQUIRING A MINIMUM WAGE THAT EXCEEDS THE STATEWIDE MINIMUM WAGE, THE LOCAL GOVERNMENT MAY ONLY INCREASE THE LOCAL MINIMUM WAGE EACH YEAR BY UP TO ONE DOLLAR AND SEVENTY-FIVE CENTS OR FIFTEEN PERCENT, WHICHEVER IS HIGHER, UNTIL THE LOCAL MINIMUM WAGE REACHES THE AMOUNT ENACTED BY THE LOCAL GOVERNMENT.

(8) (a) BY JULY 1, 2021, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL ISSUE A WRITTEN REPORT REGARDING LOCAL

MINIMUM WAGE LAWS IN THE STATE. THE REPORT MUST INCLUDE THE LOCATION, NATURE, AND SCOPE OF ENACTED LOCAL MINIMUM WAGE LAWS. TO THE EXTENT FEASIBLE, THE EXECUTIVE DIRECTOR SHALL ALSO INCLUDE IN THE REPORT ECONOMIC DATA, INCLUDING JOBS, EARNINGS, AND SALES TAX REVENUE, IN THE JURISDICTION OF ANY LOCAL GOVERNMENT THAT HAS ENACTED A LOCAL MINIMUM WAGE LAW PURSUANT TO THIS SECTION, AS WELL AS DATA FOR NEIGHBORING JURISDICTIONS, RELEVANT REGIONS, AND THE STATE. THE REPORT MAY INCLUDE RECOMMENDATIONS FOR POSSIBLE IMPROVEMENTS TO THIS SECTION.

(b) THE EXECUTIVE DIRECTOR SHALL UPDATE THE REPORT BY JULY 1 EACH YEAR THEREAFTER IF AN ADDITIONAL LOCAL GOVERNMENT ENACTS A MINIMUM WAGE LAW AFTER JULY 1 OF THE YEAR PRIOR.

(c) (I) THE EXECUTIVE DIRECTOR SHALL SUBMIT THE REPORT REQUIRED IN THIS SUBSECTION (8) TO THE SENATE LOCAL GOVERNMENT COMMITTEE AND THE HOUSE OF REPRESENTATIVES TRANSPORTATION AND LOCAL GOVERNMENT COMMITTEE, OR THEIR SUCCESSOR COMMITTEES.

(II) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE REPORT REQUIRED IN THIS SUBSECTION (8) CONTINUES INDEFINITELY.

(9) (a) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL NOTIFY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING IF A LOCAL GOVERNMENT ENACTS A MINIMUM WAGE THAT EXCEEDS THE STATEWIDE MINIMUM WAGE.

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

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

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

(b) FOR PURPOSES OF DETERMINING WHETHER TEN PERCENT OF LOCAL

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

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

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

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

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

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

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

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

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

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

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

25.5-6-208. Nursing facility provider reimbursement - rules - definition. (1) (a) THE EXECUTIVE DIRECTOR SHALL, BY RULE, ESTABLISH A PROCESS FOR ELIGIBLE NURSING FACILITY PROVIDERS TO APPLY FOR A LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT WHENEVER A LOCAL GOVERNMENT INCREASES ITS

MINIMUM WAGE ABOVE THE STATEWIDE MINIMUM WAGE. IF A LOCAL GOVERNMENT INCREASES ITS MINIMUM WAGE ABOVE THE STATEWIDE MINIMUM WAGE, THE GENERAL ASSEMBLY SHALL APPROPRIATE ENOUGH MONEY TO THE STATE DEPARTMENT TO COVER THE LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT FOR ALL ELIGIBLE NURSING FACILITY PROVIDERS. ANY PAYMENT MADE PURSUANT TO THIS SECTION MUST NOT OCCUR UNTIL THE LOCAL GOVERNMENT MINIMUM WAGE LAW TAKES EFFECT.

(b) THE RULES MUST PROVIDE:

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

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

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

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

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

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

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

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

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

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

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

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

(b) THE EXECUTIVE DIRECTOR MAY REQUEST INFORMATION FROM A NURSING FACILITY PROVIDER THAT RECEIVES A LOCAL MINIMUM WAGE ENHANCEMENT PAYMENT UNDER THIS SECTION REGARDING THE USE OF SUCH PAYMENT.

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

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

SECTION 8. Act subject to petition - effective date. This act takes effect January 1, 2020; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 28, 2019