

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0938.01 Chelsea Princell x4335

HOUSE BILL 22-1333

HOUSE SPONSORSHIP

Herod and McCluskie,

SENATE SPONSORSHIP

Zenzinger and Rankin,

House Committees
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING AN INCREASE IN THE MINIMUM WAGE FOR NURSING
102 FACILITY EMPLOYEES, AND, IN CONNECTION THEREWITH,
103 MAKING AN APPROPRIATION.

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/>.)

Joint Budget Committee. Under current law, only nursing facilities that are within a locality that has increased its local minimum wage are eligible to receive annual supplemental payments to increase the minimum wage for nursing facility employees up to the minimum wage set by the locality. The bill changes the definition of "eligible nursing

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.

facility provider" and makes other conforming changes to allow any Colorado nursing facility that meets the defined criteria to be eligible to receive wage enhancement supplemental payments, as defined in the bill, to increase the minimum wage for nursing facility employees to at least \$15 per hour.

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

2 **SECTION 1.** In Colorado Revised Statutes, 25.5-6-201, **amend**
3 (15.5); **repeal** (20.5); and **add** (37) as follows:

4 **25.5-6-201. Special definitions relating to nursing facility**
5 **reimbursement.** As used in this part 2, unless the context otherwise
6 requires:

7 (15.5) "Eligible nursing facility provider" means a nursing facility,
8 ~~provider that is located:~~ AS DEFINED IN SECTION 25.5-4-103.

9 ~~(a) Within the jurisdiction of a local government that has increased~~
10 ~~its local minimum wage above the statewide minimum wage; or~~

11 ~~(b) Adjacent to a local government that has increased its local~~
12 ~~minimum wage above the statewide minimum wage and the nursing~~
13 ~~facility has voluntarily agreed to raise the wage of all employees to the~~
14 ~~same amount and in the same manner as the adjacent local government.~~

15 ~~(20.5) "Local minimum wage enhancement payment" means a~~
16 ~~supplemental payment to an eligible nursing facility provider that is~~
17 ~~subject to available appropriations and not a rate enhancement.~~

18 (37) "WAGE ENHANCEMENT SUPPLEMENTAL PAYMENT" MEANS A
19 SUPPLEMENTAL PAYMENT TO AN ELIGIBLE NURSING FACILITY PROVIDER
20 THAT IS SUBJECT TO AVAILABLE APPROPRIATIONS AND NOT A RATE
21 ENHANCEMENT.

22 **SECTION 2.** In Colorado Revised Statutes, **amend** 25.5-6-208 as
23 follows:

1 **25.5-6-208. Nursing facility provider reimbursement - rules -**

2 **definition.** (1) (a) ~~The SUBJECT TO AVAILABLE APPROPRIATIONS AND~~
3 FEDERAL MATCHING FUNDS, THE executive director shall, by rule, establish
4 a process for ~~eligible nursing facility providers to apply for a local~~
5 ~~minimum wage enhancement payment whenever a local government~~
6 ~~increases its minimum wage above the statewide minimum wage. If a~~
7 ~~local government increases its minimum wage above the statewide~~
8 ~~minimum wage, the general assembly shall appropriate enough money to~~
9 ~~the state department to cover the local minimum wage enhancement~~
10 ~~payment for all eligible nursing facility providers. Any payment made~~
11 ~~pursuant to this section must not occur until the local government~~
12 ~~minimum wage law takes effect.~~ PROVIDING A WAGE ENHANCEMENT
13 SUPPLEMENTAL PAYMENT TO ELIGIBLE NURSING HOME PROVIDERS THAT
14 PAY THEIR EMPLOYEES A WAGE OF AT LEAST FIFTEEN DOLLARS PER HOUR.

15 (b) The rules must provide:

16 (I) That wage enhancement SUPPLEMENTAL payments are available
17 to any eligible nursing facility provider; **and**

18 (II) The form and manner in which an eligible nursing facility
19 provider ~~may apply~~ MUST ATTEST to the state department for wage
20 ~~enhancement payments. The form must require the eligible nursing facility~~
21 ~~provider to demonstrate the difference between the actual wages of~~
22 ~~nursing facility provider employees at the time the local government wage~~
23 ~~increase goes into effect and the locally enacted minimum wage.~~ THAT
24 THE WAGE FOR ALL EMPLOYEES IS FIFTEEN DOLLARS OR MORE PER HOUR;

25 (III) THE TIMING FOR THE DISTRIBUTION OF THE WAGE
26 ENHANCEMENT SUPPLEMENTAL PAYMENT; AND

27 (IV) THE CALCULATION METHODOLOGY FOR DETERMINING THE

1 WAGE ENHANCEMENT SUPPLEMENTAL PAYMENT FOR EACH ELIGIBLE
2 NURSING FACILITY PROVIDER.

3 ~~(2) Subject to available appropriations, a local minimum wage~~
4 ~~enhancement payment shall be calculated and paid to eligible nursing~~
5 ~~facility providers by determining the total amount of funding needed to~~
6 ~~increase the minimum wage of all employees at an eligible nursing facility~~
7 ~~provider to the locally enacted minimum wage multiplied by the factor of~~
8 ~~the medicaid census of each provider.~~

9 ~~(3) (a) Subject to available appropriations, for the purpose of~~
10 ~~reimbursing an eligible nursing facility provider for a local minimum~~
11 ~~wage enhancement payment, the state department shall establish and~~
12 ~~annually readjust a payment schedule.~~

13 ~~(b) To request a local minimum wage enhancement payment, an~~
14 ~~eligible nursing facility shall annually submit:~~

15 ~~(I) The difference between the actual wage rate of nursing facility~~
16 ~~provider employees and the local minimum wage rate applicable to those~~
17 ~~nursing facility provider employees who are eligible for an increased local~~
18 ~~minimum wage rate. A nursing facility provider employee's wage rate~~
19 ~~must equal or exceed the minimum wage rate required by state or federal~~
20 ~~law.~~

21 ~~(II) The number of eligible nursing facility provider employees by~~
22 ~~provider, current wage rate of the employees, and wage rate of the~~
23 ~~employees after a local minimum wage law goes into effect.~~

24 ~~(c) An eligible nursing facility provider shall submit an application~~
25 ~~with the information required in this section for each year in which the~~
26 ~~eligible nursing facility provider seeks a local minimum wage~~
27 ~~enhancement payment.~~

1 (4) A ~~local minimum~~ wage enhancement SUPPLEMENTAL payment
2 made pursuant to this section is in effect as long as the ~~local minimum~~
3 ~~wage applicable to eligible nursing facility provider employees performing~~
4 ~~work within the local jurisdiction exceeds the~~ statewide minimum wage
5 IS LESS THAN FIFTEEN DOLLARS PER HOUR AS SET FORTH IN SECTION 15 OF
6 ARTICLE XVIII OF THE STATE CONSTITUTION.

7 (5) (a) ~~An eligible nursing facility provider that receives a local~~
8 ~~minimum wage enhancement payment pursuant to this section shall:~~

9 ~~(I) Use the payments only to increase the compensation for eligible~~
10 ~~nursing facility provider employees and not for any other expenditures;~~
11 ~~and~~

12 ~~(II) Track and report how the payments are used for eligible~~
13 ~~nursing facility employees on an annual basis.~~

14 (b) ~~The executive director may request information from a nursing~~
15 ~~facility provider that receives a local minimum wage enhancement~~
16 ~~payment under this section regarding the use of such payment.~~

17 (c) ~~If an eligible nursing facility provider does not use one hundred~~
18 ~~percent of the local minimum wage enhancement payment received~~
19 ~~pursuant to this section to increase the compensation for the eligible~~
20 ~~nursing facility provider's employees, the executive director may recoup~~
21 ~~any or all of the improperly used payments. The executive director may~~
22 ~~promulgate rules for the notification, violation, and process regarding an~~
23 ~~eligible nursing facility's improper use of local minimum wage~~
24 ~~enhancement payments.~~

25 (6) Payments received under this section shall offset costs reported
26 on the med-13 cost report when calculating nursing facility provider per
27 diem reimbursement under 10 CCR 2505.

1 **SECTION 3. Appropriation.** (1) For the 2022-23 state fiscal
2 year, \$2,389,627 is appropriated to the department of health care policy
3 and financing. This appropriation is from the general fund and is subject
4 to the "(M)" notation as defined in the annual general appropriation act for
5 the same fiscal year. To implement this act, the department may use this
6 appropriation for medical and long-term care services for medicaid
7 eligible individuals.

8 (2) For the 2022-23 state fiscal year, the general assembly
9 anticipates that the department of health care policy and financing will
10 receive \$2,389,626 in federal funds to implement this act. The
11 appropriation in subsection (1) of this section is based on the assumption
12 that the department will receive this amount of federal funds to be used for
13 medical and long-term care services for medicaid eligible individuals.

14 **SECTION 4. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly; except
17 that, if a referendum petition is filed pursuant to section 1 (3) of article V
18 of the state constitution against this act or an item, section, or part of this
19 act within such period, then the act, item, section, or part will not take
20 effect unless approved by the people at the general election to be held in
21 November 2022 and, in such case, will take effect on the date of the
22 official declaration of the vote thereon by the governor.