

[Second Reprint]

**ASSEMBLY, No. 4482**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

INTRODUCED JULY 30, 2020

**Sponsored by:**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblywoman ANNETTE CHAPARRO**

**District 33 (Hudson)**

**Senator JOSEPH P. CRYAN**

**District 20 (Union)**

**Senator JOSEPH A. LAGANA**

**District 38 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblywomen Speight, Vainieri Huttler, Assemblyman Benson, Assemblywomen Reynolds-Jackson, McKnight, Assemblymen Johnson, Caputo, Tully, Assemblywomen Swain, Jasey, Lampitt, Lopez, Senators Diegnan, Greenstein, O'Scanlon, Pou and Ruiz**

**SYNOPSIS**

Establishes minimum wage requirements for certain long-term care facility staff; establishes direct care ratio requirements for nursing homes; requires nursing home care rate study.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on August 24, 2020, with amendments.

(Sponsorship Updated As Of: 8/27/2020)

1 AN ACT concerning long-term care facilities, amending P.L.1966,  
2 c.113, and supplementing Title 30 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to  
8 read as follows:

9 2. As used in this act:

10 (a) "Commissioner" means the Commissioner of Labor and  
11 Workforce Development.

12 (b) "Director" means the director in charge of the bureau  
13 referred to in section 3 of this act.

14 (c) "Wage board" means a board created as provided in section  
15 10 of this act.

16 (d) "Wages" means any moneys due an employee from an  
17 employer for services rendered or made available by the employee  
18 to the employer as a result of their employment relationship  
19 including commissions, bonus and piecework compensation and  
20 including the fair value of any food or lodgings supplied by an  
21 employer to an employee, and, until December 31, 2018, "wages"  
22 includes any gratuities received by an employee for services  
23 rendered for an employer or a customer of an employer. The  
24 commissioner may, by regulation, establish the average value of  
25 gratuities received by an employee in any occupation and the fair  
26 value of food and lodging provided to employees in any occupation,  
27 which average values shall be acceptable for the purposes of  
28 determining compliance with this act in the absence of evidence of  
29 the actual value of such items.

30 (e) "Regular hourly wage" means the amount that an employee  
31 is regularly paid for each hour of work as determined by dividing  
32 the total hours of work during the week into the employee's total  
33 earnings for the week, exclusive of overtime premium pay.

34 (f) "Employ" includes to suffer or to permit to work.

35 (g) "Employer" includes any individual, partnership,  
36 association, corporation, and the State and any county,  
37 municipality, or school district in the State, or any agency,  
38 authority, department, bureau, or instrumentality thereof, or any  
39 person or group of persons acting directly or indirectly in the  
40 interest of an employer in relation to an employee.

41 (h) "Employee" includes any individual employed by an  
42 employer.

43 (i) "Occupation" means any occupation, service, trade,  
44 business, industry or branch or group of industries or employment  
45 or class of employment in which employees are gainfully employed.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup>Assembly ASE committee amendments adopted August 24, 2020.

<sup>2</sup>Assembly AAP committee amendments adopted August 24, 2020.

1 (j) "Minimum fair wage order" means a wage order  
2 promulgated pursuant to this act.

3 (k) "Fair wage" means a wage fairly and reasonably  
4 commensurate with the value of the service or class of service  
5 rendered and sufficient to meet the minimum cost of living  
6 necessary for health.

7 (l) "Oppressive and unreasonable wage" means a wage which is  
8 both less than the fair and reasonable value of the service rendered  
9 and less than sufficient to meet the minimum cost of living  
10 necessary for health.

11 (m) "Limousine" means a motor vehicle used in the business of  
12 carrying passengers for hire to provide prearranged passenger  
13 transportation at a premium fare on a dedicated, nonscheduled,  
14 charter basis that is not conducted on a regular route and with a  
15 seating capacity in no event of more than 14 passengers, not  
16 including the driver, provided, that such a motor vehicle shall not  
17 have a seating capacity in excess of four passengers, not including  
18 the driver, beyond the maximum passenger seating capacity of the  
19 vehicle, not including the driver, at the time of manufacture.  
20 "Limousine" shall not include taxicabs, hotel or airport shuttles and  
21 buses, buses employed solely in transporting school children or  
22 teachers to and from school, vehicles owned and operated directly  
23 or indirectly by businesses engaged in the practice of mortuary  
24 science when those vehicles are used exclusively for providing  
25 transportation related to the provision of funeral services or vehicles  
26 owned and operated without charge or remuneration by a business  
27 entity for its own purposes.

28 (n) "Seasonal employment" means employment during a year by  
29 an employer that is a seasonal employer ,or employment by a non-  
30 profit or government entity of an individual who is not employed by  
31 that employer outside of the period of that year commencing on  
32 May 1 and ending September 30, or employment by a governmental  
33 entity in a recreational program or service during the period  
34 commencing on May 1 and ending September 30, except that  
35 "seasonal employment" does not include employment of employees  
36 engaged to labor on a farm on either a piece-rate or regular hourly  
37 rate basis .

38 (o) "Seasonal employer" means an employer who exclusively  
39 provides its services in a continuous period of not more than ten  
40 weeks during the months of June, July, August, and September, or  
41 an employer for which, during the immediately previous calendar  
42 year, not less than two thirds of the employer's gross receipts were  
43 received in a continuous period of not more than sixteen weeks or  
44 for which not less than 75 percent of the wages paid by the  
45 employer during the immediately preceding year were paid for work  
46 performed during a single calendar quarter.

47 (p) "Small employer" means any employer who employed less  
48 than six employees for every working day during each of a majority

1 of the calendar workweeks in the current calendar year and less than  
2 six employees for every working day during not less than 48  
3 calendar workweeks in the preceding calendar year, except that, if  
4 the employer was newly established during the preceding calendar  
5 year, the employer shall be regarded as a "small employer" if the  
6 employer employed less than six employees for every working day  
7 during all of the weeks of that year, and during a majority of the  
8 calendar workweeks in the current calendar year, and, if the  
9 employer is newly established during the current calendar year, the  
10 employer shall be regarded as a "small employer" if the employer  
11 employed less than six employees for every working day during a  
12 majority of the calendar workweeks in the current calendar year.

13 (q) “Long-term care facility direct care staff member” means  
14 any health care professional licensed or certified pursuant to Title  
15 26 or Title 45 of the Revised Statutes who is employed by a long-  
16 term care facility and who provides personal care, assistance, or  
17 treatment services directly to residents of the facility in the course  
18 of the professional’s regular duties.

19 (cf: P.L.2019, c.32, s.1)

20

21 2. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to  
22 read as follows:

23 5. a. Except as provided in subsections c., d., e. **[and]** g., and  
24 i. of this section, each employer shall pay to each of his employees  
25 wages at a rate of not less than \$8.85 per hour as of January 1,  
26 2019 and, on January 1 of 2020 and January 1 of each subsequent  
27 year, the minimum wage shall be increased by any increase in the  
28 consumer price index for all urban wage earners and clerical  
29 workers (CPI-W) as calculated by the federal government for the 12  
30 months prior to the September 30 preceding that January 1, except  
31 that any of the following rates shall apply if it exceeds the rate  
32 determined in accordance with the applicable increase in the CPI-W  
33 for the indicated year: on July 1, 2019, the minimum wage shall be  
34 \$10.00 per hour; on January 1, 2020, the minimum wage shall be  
35 \$11.00 per hour; and on January 1 of each year from 2021 to 2024,  
36 inclusive, the minimum wage shall be increased from the rate of the  
37 preceding year by \$1.00 per hour. If the federal minimum hourly  
38 wage rate set by section 6 of the federal "Fair Labor Standards Act  
39 of 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
40 level higher than the State minimum wage rate set by this  
41 subsection, then the State minimum wage rate shall be increased to  
42 the level of the federal minimum wage rate and subsequent  
43 increases based on increases in the CPI-W pursuant to this section  
44 shall be applied to the higher minimum wage rate. If an applicable  
45 wage order has been issued by the commissioner under section 17  
46 (C.34:11-56a16) of this act, the employer shall also pay not less  
47 than the wages prescribed in said order. The wage rates fixed in  
48 this section shall not be applicable to part-time employees primarily

1 engaged in the care and tending of children in the home of the  
2 employer, to persons under the age of 18 not possessing a special  
3 vocational school graduate permit issued pursuant to section 15 of  
4 P.L.1940, c.153 (C.34:2-21.15), or to persons employed as  
5 salesmen of motor vehicles, or to persons employed as outside  
6 salesmen as such terms shall be defined and delimited in regulations  
7 adopted by the commissioner, or to persons employed in a volunteer  
8 capacity and receiving only incidental benefits at a county or other  
9 agricultural fair by a nonprofit or religious corporation or a  
10 nonprofit or religious association which conducts or participates in  
11 that fair.

12 b. (1) An employer shall also pay each employee not less than  
13 1 1/2 times such employee's regular hourly rate for each hour of  
14 working time in excess of 40 hours in any week, except that this  
15 overtime rate shall not apply: to any individual employed in a bona  
16 fide executive, administrative, or professional capacity; or to  
17 employees engaged to labor on a farm or employed in a hotel; or to  
18 an employee of a common carrier of passengers by motor bus; or to  
19 a limousine driver who is an employee of an employer engaged in  
20 the business of operating limousines; or to employees engaged in  
21 labor relative to the raising or care of livestock.

22 (2) Employees engaged on a piece-rate or regular hourly rate  
23 basis to labor on a farm shall be paid for each day worked not less  
24 than the applicable minimum hourly wage rate multiplied by the  
25 total number of hours worked.

26 (3) Full-time students may be employed by the college or  
27 university at which they are enrolled at not less than 85% of the  
28 effective applicable minimum wage rate.

29 c. Employees of a small employer, and employees who are  
30 engaged in seasonal employment, except for employees who  
31 customarily and regularly receive gratuities or tips who shall be  
32 subject to the provisions of subsections a. and d. of this section,  
33 shall be paid \$8.85 per hour as of January 1, 2019 and, on January 1  
34 of 2020 and January 1 of each subsequent year, that minimum wage  
35 rate shall be increased by any increase in the consumer price index  
36 for all urban wage earners and clerical workers (CPI-W) as  
37 calculated by the federal government for the 12 months prior to the  
38 September 30 preceding that January 1, except that any of the  
39 following rates shall apply if it exceeds the rate determined in  
40 accordance with the applicable increase in the CPI-W for the  
41 indicated year: on January 1, 2020, the minimum wage shall be  
42 \$10.30 per hour; and on January 1 of each year from 2021 to 2025,  
43 inclusive, the minimum wage shall be increased from the rate of the  
44 preceding year by eighty cents per hour, and, in 2026, the minimum  
45 wage shall be increased from the rate of the preceding year by  
46 seventy cents per hour, and, in each year from 2027 to 2028  
47 inclusive, the minimum wage for employees subject to this  
48 subsection c. shall be increased by the same amount as the increase

1 for employees subject to subsection a. of this section based on CPI-  
2 W increases, plus one half of the difference between \$15.00 per  
3 hour and the minimum wage in effect in 2026 for employees  
4 pursuant to subsection a. of this section, so that, by 2028, the  
5 minimum wage for employees subject to this subsection shall be the  
6 same as the minimum wage in effect for employees subject to  
7 subsection a. of this section. If the federal minimum hourly wage  
8 rate set by section 6 of the federal "Fair Labor Standards Act of  
9 1938" (29 U.S.C. s.206), or a successor federal law, is raised to a  
10 level higher than the State minimum wage rate set by this  
11 subsection, then the State minimum wage rate shall be increased to  
12 the level of the federal minimum wage rate and subsequent  
13 increases based on increases in the CPI-W pursuant to this  
14 subsection shall be applied to the higher minimum wage rate.

15 d. Employees engaged on a piece-rate or regular hourly rate  
16 basis to labor on a farm shall be paid \$8.85 per hour as of January  
17 1, 2019 and, on January 1 of 2020 and January 1 of each subsequent  
18 year, that minimum wage rate shall be increased by any increase in  
19 the consumer price index for all urban wage earners and clerical  
20 workers (CPI-W) as calculated by the federal government for the 12  
21 months prior to the September 30 preceding that January 1, except  
22 that any of the following rates shall apply if it exceeds the rate  
23 determined in accordance with the applicable increase in the CPI-W  
24 for the indicated year:

25 (1) on January 1, 2020, the minimum wage shall be \$10.30 per  
26 hour; on January 1, 2022, the minimum wage shall be \$10.90 per  
27 hour; and on January 1 of each year from 2023 to 2024, inclusive,  
28 the minimum wage shall be increased from the rate of the preceding  
29 year by eighty cents per hour; and

30 (2) subject to the provisions of paragraph (3) of this subsection  
31 d., minimum wage rates shall be increased as follows: on January 1  
32 of 2025, the minimum wage shall be increased to \$13.40, and on  
33 January 1 of each year from 2026 to 2027, inclusive, the minimum  
34 wage shall be increased from the rate of the preceding year by  
35 eighty cents per hour, and, in each year from 2028 to 2030  
36 inclusive, the minimum wage for employees subject to this  
37 subsection d. shall be increased during that year by the same  
38 amount as the increase in that year for employees subject to  
39 subsection a. of this section based on CPI-W increases, plus one  
40 third of the difference between \$15.00 per hour and the minimum  
41 wage in effect in 2027 for employees pursuant to subsection a. of  
42 this section, so that, by 2030, the minimum wage for employees  
43 subject to this subsection shall be the same as the minimum wage in  
44 effect for employees subject to subsection a. of this section.

45 (3) Not later than March 31, 2024, the commissioner and the  
46 Secretary of Agriculture shall review the report issued by the  
47 commissioner pursuant to subsection b. of section 4 of P.L.2019,  
48 c.32 (C.34:11-56a4.10) and shall consider any information provided

1 by the secretary regarding the impact on farm employers and the  
2 viability of the State's agricultural industry of the increases of the  
3 minimum wage made pursuant to paragraph (1) of this subsection,  
4 and the potential impact of the increases which would be set by  
5 paragraph (2) of this subsection, including comparisons with the  
6 wage rates in the agricultural industries in other states, and shall  
7 recommend: approval of the increases set forth in paragraph (2) of  
8 this subsection; disapproval of the increases set forth in paragraph  
9 (2) of this subsection; or an alternative manner of changing the  
10 minimum wage after 2024 for employees engaged on a piece-rate or  
11 regular hourly rate basis to labor on a farm. In contemplation of the  
12 possibility that the commissioner and the secretary are unable to  
13 agree on the recommendation required by this paragraph, by  
14 December 31, 2021, the Governor shall appoint a public member  
15 subject to advice and consent by the Senate, who will serve as a tie-  
16 breaking member if needed. The increases set forth in paragraph (2)  
17 of this subsection shall take effect unless there is a recommendation  
18 pursuant to this paragraph to disapprove the increases or for an  
19 alternative manner of changing the minimum wage after 2024 for  
20 employees engaged on a piece-rate or regular hourly rate basis to  
21 labor on a farm and the Legislature, not later than June 30, 2024,  
22 enacts a concurrent resolution approving the implementation of that  
23 recommendation. Beginning in 2024, the commissioner, secretary,  
24 and public member shall meet biennially to make either a one or  
25 two year recommendation to the Legislature for implementation by  
26 way of concurrent resolution.

27 (4) If the federal minimum hourly wage rate set by section 6 of  
28 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or  
29 a successor federal law, is raised to a level higher than the State  
30 minimum wage rate set by this subsection, then the State minimum  
31 wage rate shall be increased to the level of the federal minimum  
32 wage rate and subsequent increases based on increases in the CPI-  
33 W pursuant to this subsection shall be applied to the higher  
34 minimum wage rate.

35 e. With respect to an employee who customarily and regularly  
36 receives gratuities or tips, every employer is entitled to a credit for  
37 the gratuities or tips received by the employee against the hourly  
38 wage rate that would otherwise be paid to the employee pursuant to  
39 subsection a. of this section of the following amounts: after  
40 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after  
41 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during  
42 calendar years 2020, 2021 and 2022, \$7.87 per hour; during  
43 calendar year 2023, \$8.87 per hour; and during calendar year 2024  
44 and subsequent calendar years, \$9.87 per hour.

45 f. Notwithstanding the provisions of this section to the  
46 contrary, every trucking industry employer shall pay to all drivers,  
47 helpers, loaders and mechanics for whom the Secretary of  
48 Transportation may prescribe maximum hours of work for the safe

1 operation of vehicles, pursuant to section 31502(b) of the federal  
2 Motor Carrier Act, 49 U.S.C.s.31502(b), an overtime rate not less  
3 than 1 1/2 times the minimum wage required pursuant to this  
4 section and N.J.A.C. 12:56-3.1. Employees engaged in the trucking  
5 industry shall be paid no less than the minimum wage rate as  
6 provided in this section and N.J.A.C. 12:56-3.1. As used in this  
7 section, "trucking industry employer" means any business or  
8 establishment primarily operating for the purpose of conveying  
9 property from one place to another by road or highway, including  
10 the storage and warehousing of goods and property. Such an  
11 employer shall also be subject to the jurisdiction of the Secretary of  
12 Transportation pursuant to the federal Motor Carrier Act, 49  
13 U.S.C.s.31501 et seq., whose employees are exempt under section  
14 213(b)(1) of the federal "Fair Labor Standards Act of 1938," 29  
15 U.S.C. s.213(b)(1), which provides an exemption to employees  
16 regulated by section 207 of the federal "Fair Labor Standards Act of  
17 1938," 29 U.S.C. s.207, and the Interstate Commerce Act, 49  
18 U.S.C. s.501 et al.

19 g. Commencing on January 1, 2020, a training wage of not less  
20 than 90 percent of the minimum wage rate otherwise set pursuant to  
21 subsection a. of this section may be paid to an employee who is  
22 enrolled in an established employer on-the-job or other training  
23 program which meets standards set by regulations adopted by the  
24 commissioner. The period during which an employer may pay the  
25 training wage to the employee shall be the first 120 hours of work  
26 after hiring the employee in employment in an occupation in which  
27 the employee has no previous similar or related experience. An  
28 employer shall not utilize any employee paid the training wage in a  
29 manner which causes, induces, encourages or assists any  
30 displacement or partial displacement of any currently employed  
31 worker, including any previous recipient of the training wage, by  
32 reducing hours of a currently employed worker, replacing a current  
33 or laid off employee with a trainee, or by relocating operations  
34 resulting in a loss of employment at a previous workplace, or in a  
35 manner which replaces, supplants, competes with or duplicates any  
36 approved apprenticeship program. An employer who pays an  
37 employee a training wage shall make a good faith effort to continue  
38 to employ the employee after the period of the training wage  
39 expires and shall not hire the employee at the training wage unless  
40 there is a reasonable expectation that there will be regular  
41 employment, paying at or above the effective minimum wage, for  
42 the trainee upon the successful completion of the period of the  
43 training wage. If the commissioner determines that an employer  
44 has made repeated, knowing violations of the provisions of this  
45 subsection regarding the payment of a training wage, the  
46 commissioner shall suspend the employer's right to pay a training  
47 wage for a period set pursuant to regulations adopted by the  
48 commissioner, but not less than three years.



1 h. The provisions of this section shall not be construed as  
2 prohibiting any political subdivision of the State from adopting an  
3 ordinance, resolution, regulation or rule, or entering into any  
4 agreement, establishing any standard for vendors, contractors and  
5 subcontractors of the subdivision regarding wage rates or overtime  
6 compensation which is higher than the standards provided for in  
7 this section, and no provision of any other State or federal law  
8 establishing a minimum standard regarding wages or other terms  
9 and conditions of employment shall be construed as preventing a  
10 political subdivision of the State from adopting an ordinance,  
11 resolution, regulation or rule, or entering into any agreement,  
12 establishing a standard for vendors, contractors and subcontractors  
13 of the subdivision which is higher than the State or federal law or  
14 which otherwise provides greater protections or rights to employees  
15 of the vendors, contractors and subcontractors of the subdivision,  
16 unless the State or federal law expressly prohibits the subdivision  
17 from adopting the ordinance, resolution, regulation or rule, or  
18 entering into the agreement.

19 i. Effective on the first day of the second month next following  
20 the effective date of P.L. , c. (C. ) (pending before the  
21 Legislature as this bill), the minimum wage for long-term care  
22 facility direct care staff members shall be in an amount that is \$3  
23 higher than the prevailing minimum wage established pursuant to  
24 subsection a. of this section <sup>1</sup>, which minimum wage rate shall be  
25 annually increased by any increase in the consumer price index for  
26 all urban wage earners and clerical workers (CPI-W) as calculated  
27 by the federal government for the 12 months prior to the September  
28 30 preceding that January 1, plus any amount as is necessary to  
29 ensure that the minimum wage established pursuant to this  
30 subsection is \$3 higher than the prevailing minimum wage then in  
31 effect under subsection a. of this section <sup>1</sup> .

32 (cf: P.L.2019, c.32, s.2)

33

34 3. (New section) a. The Commissioner of Human Services  
35 shall submit recommendations to the Legislature, pursuant to  
36 section 2 of P.L.1991, c.164 (C.52:14-19.1), for legislative approval  
37 of any reimbursement rate increases as may be needed to comply  
38 with minimum wage requirements for long-term care facility direct  
39 care staff as provided in subsection i. of section 5 of P.L.1966,  
40 c.113 (C.34:11-56a4). The commissioner may recommend that  
41 increases for nursing homes be tied to improvements in specific  
42 quality and safety metrics <sup>1</sup>, including, but not limited to:

43 (1) meeting nursing home staffing requirements; and

44 (2) implementing policies for improved communication between  
45 the nursing home and Managed Long Term Services and Supports  
46 and care managers <sup>1</sup> .

47 b. No later than 90 days after the effective date of this act, the  
48 Commissioner of Human Services shall conduct a review of the

1 Department of Human Services' Medicaid value-based payment  
2 strategy, including the Quality Incentive Payment Program, to  
3 ensure incentives provided under the strategy focus on priority  
4 metrics for quality improvement, and shall review and determine  
5 whether incentives are an effective means of driving improvements  
6 in quality of care and resident and staff safety in nursing homes.

7 c. (1) ~~1~~ 1 [No later than 90 days after the effective date of this  
8 act, the] 1 The<sup>1</sup> Commissioner of Human Services shall establish a  
9 direct care ~~1~~ 1 [loss]<sup>1</sup> ratio reporting and rebate requirement <sup>1</sup>, which  
10 shall take effect no later than July 1, 2021<sup>1</sup> , pursuant to which  
11 nursing homes shall be required to report total revenues collected,  
12 along with the portion of revenues that are expended on direct care  
13 staff wages, other staff wages, <sup>1</sup> taxes,<sup>1</sup> administrative costs,  
14 investments in improvements to the facility's equipment and  
15 physical plant, ~~1~~ 1 [and]<sup>1</sup> profits <sup>1</sup>, and any other factors as the  
16 commissioner shall require<sup>1</sup> .

17 (2) <sup>1</sup> The direct care ratio shall require 90 percent, or such higher  
18 percentage as the commissioner may establish by regulation, of a  
19 facility's aggregate revenue in a fiscal year to be expended on the  
20 direct care of residents.<sup>1</sup> The commissioner shall determine <sup>1</sup> [the  
21 maximum proportion of revenues that may be dedicated to] which  
22 components of the reporting requirements shall be attributed to  
23 direct patient care,<sup>1</sup> administrative costs <sup>1</sup>,<sup>1</sup> and profits. The  
24 commissioner <sup>1</sup> [shall determine the exact ratio based on historical  
25 cost reports, and]<sup>1</sup> may adjust the <sup>1</sup> components of the<sup>1</sup> ratio as  
26 appropriate based on current financial information reported by  
27 nursing homes and overall performance by the nursing home related  
28 to patient safety and quality of care.

29 (3) The commissioner <sup>1</sup> or an entity designated by the  
30 commissioner<sup>1</sup> may conduct an audit of the financial information  
31 reported by nursing homes pursuant to this section to ensure the  
32 accuracy of the information reported and compliance with the  
33 requirements of this section, as well as to identify and recover any  
34 payments that exceed the allowed cost ratio for administrative costs  
35 and profits.

36 (4) In each case where the direct care loss ratio fails to  
37 substantially comply with the ratio requirement established pursuant  
38 to this subsection, the nursing home shall issue a pro rata dividend  
39 or credit to <sup>1</sup> the State and to<sup>1</sup> all individuals and entities making  
40 payments to the nursing home for resident services in an amount  
41 sufficient to assure that the aggregate amount paid for direct care  
42 staff wages, other staff wages, <sup>1</sup> taxes,<sup>1</sup> administrative costs,  
43 investments in improvements to the nursing home's equipment and  
44 physical plant, ~~1~~ 1 [and]<sup>1</sup> profits, <sup>1</sup> and other factors,<sup>1</sup> plus the amount  
45 of the dividends and credits, equals the mandatory ratio for the  
46 previous calendar year. The pro rata dividend or credit shall be

1 equal to the percentage of payments made by the payor to the  
2 nursing home in the previous calendar year out of all payments  
3 made to the nursing home for services provided in the previous  
4 calendar year from all payment sources. All dividends and credits  
5 shall be distributed by <sup>1</sup>~~December 31~~ June 30<sup>1</sup> of the year  
6 following the calendar year in which the ratio requirements were  
7 not satisfied.

8  
9 <sup>2</sup>4. No later than 60 days after the effective date of this act, the  
10 Commissioner of Human Services or an entity designated by the  
11 commissioner shall initiate a study of the costs and payments  
12 associated with nursing home care, which study shall focus on, and  
13 include recommendations concerning, adjusting reimbursement  
14 rates to account for differences in resident acuity levels, as well as  
15 other factors as may be relevant to nursing home costs and  
16 payments. The commissioner shall prepare and submit an interim  
17 report concerning the status of the study no later than one year after  
18 the effective date of this act, and shall prepare and submit a final  
19 report of the findings and recommendations of the study to the  
20 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
21 19.1), to the Legislature, no later than January 1, 2022.<sup>2</sup>

22  
23 <sup>2</sup>~~14.~~ <sup>2</sup>5. The Commissioner of Human Services shall apply for  
24 such State plan amendments or waivers as may be necessary to  
25 implement the provisions of this act and to secure federal financial  
26 participation for State Medicaid expenditures under the federal  
27 Medicaid program.<sup>1</sup>

28  
29 <sup>1</sup>~~4.~~ <sup>2</sup>~~5.1~~ <sup>2</sup>6. This act shall take effect immediately.