



General Assembly

**Substitute Bill No. 1109**

January Session, 2023



**AN ACT CONCERNING MEDICAID REIMBURSEMENT TO  
COMMUNITY LIVING ARRANGEMENTS, INTERMEDIATE CARE  
FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES,  
RESIDENTIAL CARE HOMES AND NURSING FACILITIES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-244 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2023*):

3 (a) The room and board component of the rates to be paid by the  
4 state to private facilities and facilities operated by regional education  
5 service centers which are licensed to provide residential care pursuant  
6 to section 17a-227, but not certified to participate in the Title XIX  
7 Medicaid program as intermediate care facilities for individuals with  
8 intellectual disabilities, shall be determined annually by the  
9 Commissioner of Social Services. [, except that rates effective April 30,  
10 1989, shall remain in effect through October 31, 1989. Any facility with  
11 real property other than land placed in service prior to July 1, 1991,  
12 shall, for the fiscal year ending June 30, 1995, receive a rate of return on  
13 real property equal to the average of the rates of return applied to real  
14 property other than land placed in service for the five years preceding  
15 July 1, 1993.] For the fiscal year ending June 30, 1996, and any  
16 succeeding fiscal year, the rate of return on real property for property  
17 items shall be revised every five years. The commissioner shall, upon

18 submission of a request by such facility, allow actual debt service,  
19 comprised of principal and interest, on the loan or loans in lieu of  
20 property costs allowed pursuant to section 17-313b-5 of the regulations  
21 of Connecticut state agencies, whether actual debt service is higher or  
22 lower than such allowed property costs, provided such debt service  
23 terms and amounts are reasonable in relation to the useful life and the  
24 base value of the property. In the case of facilities financed through the  
25 Connecticut Housing Finance Authority, the commissioner shall allow  
26 actual debt service, comprised of principal, interest and a reasonable  
27 repair and replacement reserve on the loan or loans in lieu of property  
28 costs allowed pursuant to section 17-313b-5 of the regulations of  
29 Connecticut state agencies, whether actual debt service is higher or  
30 lower than such allowed property costs, provided such debt service  
31 terms and amounts are determined by the commissioner at the time  
32 the loan is entered into to be reasonable in relation to the useful life  
33 and base value of the property. The commissioner may allow fees  
34 associated with mortgage refinancing provided such refinancing will  
35 result in state reimbursement savings, after comparing costs over the  
36 terms of the existing proposed loans. For the fiscal year ending June 30,  
37 1992, the inflation factor used to determine rates shall be one-half of  
38 the gross national product percentage increase for the period between  
39 the midpoint of the cost year through the midpoint of the rate year. For  
40 fiscal year ending June 30, 1993, the inflation factor used to determine  
41 rates shall be two-thirds of the gross national product percentage  
42 increase from the midpoint of the cost year to the midpoint of the rate  
43 year. For the fiscal years ending June 30, 1996, and June 30, 1997, no  
44 inflation factor shall be applied in determining rates. The  
45 Commissioner of Social Services shall prescribe uniform forms on  
46 which such facilities shall report their costs. Such rates shall be  
47 determined on the basis of a reasonable payment for necessary  
48 services. Any increase in grants, gifts, fund-raising or endowment  
49 income used for the payment of operating costs by a private facility in  
50 the fiscal year ending June 30, 1992, shall be excluded by the  
51 commissioner from the income of the facility in determining the rates  
52 to be paid to the facility for the fiscal year ending June 30, 1993,

53 provided any operating costs funded by such increase shall not  
54 obligate the state to increase expenditures in subsequent fiscal years.  
55 Nothing contained in this section shall authorize a payment by the  
56 state to any such facility in excess of the charges made by the facility  
57 for comparable services to the general public. The service component  
58 of the rates to be paid by the state to private facilities and facilities  
59 operated by regional education service centers which are licensed to  
60 provide residential care pursuant to section 17a-227, but not certified  
61 to participate in the Title XIX Medicaid programs as intermediate care  
62 facilities for individuals with intellectual disabilities, shall be  
63 determined annually by the Commissioner of Developmental Services  
64 in accordance with section 17b-244a. For the fiscal year ending June 30,  
65 2008, no facility shall receive a rate that is more than two per cent  
66 greater than the rate in effect for the facility on June 30, 2007, except  
67 any facility that would have been issued a lower rate effective July 1,  
68 2007, due to interim rate status or agreement with the department,  
69 shall be issued such lower rate effective July 1, 2007. For the fiscal year  
70 ending June 30, 2009, no facility shall receive a rate that is more than  
71 two per cent greater than the rate in effect for the facility on June 30,  
72 2008, except any facility that would have been issued a lower rate  
73 effective July 1, 2008, due to interim rate status or agreement with the  
74 department, shall be issued such lower rate effective July 1, 2008. For  
75 the fiscal years ending June 30, 2010, and June 30, 2011, rates in effect  
76 for the period ending June 30, 2009, shall remain in effect until June 30,  
77 2011, except that (1) the rate paid to a facility may be higher than the  
78 rate paid to the facility for the period ending June 30, 2009, if a capital  
79 improvement required by the Commissioner of Developmental  
80 Services for the health or safety of the residents was made to the  
81 facility during the fiscal years ending June 30, 2010, or June 30, 2011,  
82 and (2) any facility that would have been issued a lower rate for the  
83 fiscal year ending June 30, 2010, or June 30, 2011, due to interim rate  
84 status or agreement with the department, shall be issued such lower  
85 rate. For the fiscal year ending June 30, 2012, rates in effect for the  
86 period ending June 30, 2011, shall remain in effect until June 30, 2012,  
87 except that (A) the rate paid to a facility may be higher than the rate

88 paid to the facility for the period ending June 30, 2011, if a capital  
89 improvement required by the Commissioner of Developmental  
90 Services for the health or safety of the residents was made to the  
91 facility during the fiscal year ending June 30, 2012, and (B) any facility  
92 that would have been issued a lower rate for the fiscal year ending  
93 June 30, 2012, due to interim rate status or agreement with the  
94 department, shall be issued such lower rate. Any facility that has a  
95 significant decrease in land and building costs shall receive a reduced  
96 rate to reflect such decrease in land and building costs. The rate paid to  
97 a facility may be increased if a capital improvement approved by the  
98 Department of Developmental Services, in consultation with the  
99 Department of Social Services, for the health or safety of the residents  
100 was made to the facility during the fiscal year ending June 30, 2014, or  
101 June 30, 2015, only to the extent such increases are within available  
102 appropriations. For the fiscal years ending June 30, 2016, and June 30,  
103 2017, rates shall not exceed those in effect for the period ending June  
104 30, 2015, except the rate paid to a facility may be higher than the rate  
105 paid to the facility for the period ending June 30, 2015, if a capital  
106 improvement approved by the Department of Developmental Services,  
107 in consultation with the Department of Social Services, for the health  
108 or safety of the residents was made to the facility during the fiscal year  
109 ending June 30, 2016, or June 30, 2017, to the extent such rate increases  
110 are within available appropriations. For the fiscal years ending June 30,  
111 2016, and June 30, 2017, and each succeeding fiscal year, any facility  
112 that would have been issued a lower rate, due to interim rate status, a  
113 change in allowable fair rent or agreement with the department, shall  
114 be issued such lower rate. For the fiscal years ending June 30, 2018, and  
115 June 30, 2019, rates shall not exceed those in effect for the period  
116 ending June 30, 2017, except the rate paid to a facility may be higher  
117 than the rate paid to the facility for the period ending June 30, 2017, if a  
118 capital improvement approved by the Department of Developmental  
119 Services, in consultation with the Department of Social Services, for the  
120 health or safety of the residents was made to the facility during the  
121 fiscal year ending June 30, 2018, or June 30, 2019, to the extent such rate  
122 increases are within available appropriations. For the fiscal years

123 ending June 30, 2020, and June 30, 2021, rates shall not exceed those in  
124 effect for the fiscal year ending June 30, 2019, except the rate paid to a  
125 facility may be higher than the rate paid to the facility for the fiscal  
126 year ending June 30, 2019, if a capital improvement approved by the  
127 Department of Developmental Services, in consultation with the  
128 Department of Social Services, for the health or safety of the residents  
129 was made to the facility during the fiscal year ending June 30, 2020, or  
130 June 30, 2021, to the extent such rate increases are within available  
131 appropriations. For the fiscal years ending June 30, 2022, and June 30,  
132 2023, rates shall be based upon rates in effect for the fiscal year ending  
133 June 30, 2021, inflated by the gross domestic product deflator  
134 applicable to each rate year, except the commissioner may, in the  
135 commissioner's discretion and within available appropriations,  
136 provide pro rata fair rent increases to facilities which have  
137 documented fair rent additions placed in service in the cost report  
138 years ending September 30, 2020, and September 30, 2021, that are not  
139 otherwise included in rates issued, or if a rate adjustment for a capital  
140 improvement approved by the Department of Developmental Services,  
141 in consultation with the Department of Social Services, for the health  
142 or safety of the residents was made to the facility during the fiscal year  
143 ending June 30, 2022, or June 30, 2023. For the fiscal years ending June  
144 30, 2024, and June 30, 2025, the rate paid to a facility may be higher  
145 than the rate paid to the facility for the fiscal year ending June 30, 2023,  
146 if a capital improvement approved by the Department of  
147 Developmental Services, in consultation with the Department of Social  
148 Services, for the health or safety of the residents was made to the  
149 facility during the fiscal year ending June 30, 2024, or June 30, 2025, to  
150 the extent such rate increases are within available appropriations.

151 (b) Notwithstanding the provisions of subsection (a) of this section,  
152 state rates of payment for the fiscal years ending June 30, 2018, June 30,  
153 2019, June 30, 2020, and June 30, 2021, for residential care homes and  
154 community living arrangements that receive the flat rate for residential  
155 services under section 17-311-54 of the regulations of Connecticut state  
156 agencies shall be set in accordance with section 298 of public act 19-

157 117. For the fiscal years ending June 30, 2022, and June 30, 2023, rates  
158 shall be based upon rates in effect for the fiscal year ending June 30,  
159 2021, inflated by the gross domestic product deflator applicable to each  
160 rate year.

161 (c) For the fiscal year ending June 30, 2024, and each subsequent  
162 fiscal year, the commissioner may, in the commissioner's discretion  
163 and within available appropriations, provide pro rata fair rent  
164 increases to facilities which have documented fair rent additions  
165 placed in service in the cost report years that are not otherwise  
166 included in rates issued.

167 [(c)] (d) The Commissioner of Social Services and the Commissioner  
168 of Developmental Services shall adopt regulations in accordance with  
169 the provisions of chapter 54 to implement the provisions of this  
170 section.

171 Sec. 2. Subsection (h) of section 17b-340 of the general statutes is  
172 repealed and the following is substituted in lieu thereof (*Effective July*  
173 *1, 2023*):

174 (h) (1) For the fiscal year ending June 30, 1993, any intermediate care  
175 facility for individuals with intellectual disabilities with an operating  
176 cost component of its rate in excess of one hundred forty per cent of  
177 the median of operating cost components of rates in effect January 1,  
178 1992, shall not receive an operating cost component increase. For the  
179 fiscal year ending June 30, 1993, any intermediate care facility for  
180 individuals with intellectual disabilities with an operating cost  
181 component of its rate that is less than one hundred forty per cent of the  
182 median of operating cost components of rates in effect January 1, 1992,  
183 shall have an allowance for real wage growth equal to thirty per cent  
184 of the increase determined in accordance with subsection (q) of section  
185 17-311-52 of the regulations of Connecticut state agencies, provided  
186 such operating cost component shall not exceed one hundred forty per  
187 cent of the median of operating cost components in effect January 1,  
188 1992. Any facility with real property other than land placed in service

189 prior to October 1, 1991, shall, for the fiscal year ending June 30, 1995,  
190 receive a rate of return on real property equal to the average of the  
191 rates of return applied to real property other than land placed in  
192 service for the five years preceding October 1, 1993. For the fiscal year  
193 ending June 30, 1996, and any succeeding fiscal year, the rate of return  
194 on real property for property items shall be revised every five years.  
195 The commissioner shall, upon submission of a request, allow actual  
196 debt service, comprised of principal and interest, in excess of property  
197 costs allowed pursuant to section 17-311-52 of the regulations of  
198 Connecticut state agencies, provided such debt service terms and  
199 amounts are reasonable in relation to the useful life and the base value  
200 of the property. For the fiscal year ending June 30, 1995, and any  
201 succeeding fiscal year, the inflation adjustment made in accordance  
202 with subsection (p) of section 17-311-52 of the regulations of  
203 Connecticut state agencies shall not be applied to real property costs.  
204 For the fiscal year ending June 30, 1996, and any succeeding fiscal year,  
205 the allowance for real wage growth, as determined in accordance with  
206 subsection (q) of section 17-311-52 of the regulations of Connecticut  
207 state agencies, shall not be applied. For the fiscal year ending June 30,  
208 1996, and any succeeding fiscal year, no rate shall exceed three  
209 hundred seventy-five dollars per day unless the commissioner, in  
210 consultation with the Commissioner of Developmental Services,  
211 determines after a review of program and management costs, that a  
212 rate in excess of this amount is necessary for care and treatment of  
213 facility residents. For the fiscal year ending June 30, 2002, rate period,  
214 the Commissioner of Social Services shall increase the inflation  
215 adjustment for rates made in accordance with subsection (p) of section  
216 17-311-52 of the regulations of Connecticut state agencies to update  
217 allowable fiscal year 2000 costs to include a three and one-half per cent  
218 inflation factor. For the fiscal year ending June 30, 2003, rate period, the  
219 commissioner shall increase the inflation adjustment for rates made in  
220 accordance with subsection (p) of section 17-311-52 of the regulations  
221 of Connecticut state agencies to update allowable fiscal year 2001 costs  
222 to include a one and one-half per cent inflation factor, except that such  
223 increase shall be effective November 1, 2002, and such facility rate in

224 effect for the fiscal year ending June 30, 2002, shall be paid for services  
225 provided until October 31, 2002, except any facility that would have  
226 been issued a lower rate effective July 1, 2002, than for the fiscal year  
227 ending June 30, 2002, due to interim rate status or agreement with the  
228 department shall be issued such lower rate effective July 1, 2002, and  
229 have such rate updated effective November 1, 2002, in accordance with  
230 applicable statutes and regulations. For the fiscal year ending June 30,  
231 2004, rates in effect for the period ending June 30, 2003, shall remain in  
232 effect, except any facility that would have been issued a lower rate  
233 effective July 1, 2003, than for the fiscal year ending June 30, 2003, due  
234 to interim rate status or agreement with the department shall be issued  
235 such lower rate effective July 1, 2003. For the fiscal year ending June  
236 30, 2005, rates in effect for the period ending June 30, 2004, shall  
237 remain in effect until September 30, 2004. Effective October 1, 2004,  
238 each facility shall receive a rate that is five per cent greater than the  
239 rate in effect September 30, 2004. Effective upon receipt of all the  
240 necessary federal approvals to secure federal financial participation  
241 matching funds associated with the rate increase provided in  
242 subdivision (4) of subsection (f) of this section, but in no event earlier  
243 than October 1, 2005, and provided the user fee imposed under section  
244 17b-320 is required to be collected, each facility shall receive a rate that  
245 is four per cent more than the rate the facility received in the prior  
246 fiscal year, except any facility that would have been issued a lower rate  
247 effective October 1, 2005, than for the fiscal year ending June 30, 2005,  
248 due to interim rate status or agreement with the department, shall be  
249 issued such lower rate effective October 1, 2005. Such rate increase  
250 shall remain in effect unless: [(1)] (A) The federal financial  
251 participation matching funds associated with the rate increase are no  
252 longer available; or [(2)] (B) the user fee created pursuant to section  
253 17b-320 is not in effect. For the fiscal year ending June 30, 2007, rates in  
254 effect for the period ending June 30, 2006, shall remain in effect until  
255 September 30, 2006, except any facility that would have been issued a  
256 lower rate effective July 1, 2006, than for the fiscal year ending June 30,  
257 2006, due to interim rate status or agreement with the department,  
258 shall be issued such lower rate effective July 1, 2006. Effective October



259 1, 2006, no facility shall receive a rate that is more than three per cent  
260 greater than the rate in effect for the facility on September 30, 2006,  
261 except any facility that would have been issued a lower rate effective  
262 October 1, 2006, due to interim rate status or agreement with the  
263 department, shall be issued such lower rate effective October 1, 2006.  
264 For the fiscal year ending June 30, 2008, each facility shall receive a rate  
265 that is two and nine-tenths per cent greater than the rate in effect for  
266 the period ending June 30, 2007, except any facility that would have  
267 been issued a lower rate effective July 1, 2007, than for the rate period  
268 ending June 30, 2007, due to interim rate status, or agreement with the  
269 department, shall be issued such lower rate effective July 1, 2007. For  
270 the fiscal year ending June 30, 2009, rates in effect for the period  
271 ending June 30, 2008, shall remain in effect until June 30, 2009, except  
272 any facility that would have been issued a lower rate for the fiscal year  
273 ending June 30, 2009, due to interim rate status or agreement with the  
274 department, shall be issued such lower rate. For the fiscal years ending  
275 June 30, 2010, and June 30, 2011, rates in effect for the period ending  
276 June 30, 2009, shall remain in effect until June 30, 2011, except any  
277 facility that would have been issued a lower rate for the fiscal year  
278 ending June 30, 2010, or the fiscal year ending June 30, 2011, due to  
279 interim rate status or agreement with the department, shall be issued  
280 such lower rate. For the fiscal year ending June 30, 2012, rates in effect  
281 for the period ending June 30, 2011, shall remain in effect until June 30,  
282 2012, except any facility that would have been issued a lower rate for  
283 the fiscal year ending June 30, 2012, due to interim rate status or  
284 agreement with the department, shall be issued such lower rate. For  
285 the fiscal years ending June 30, 2014, and June 30, 2015, rates shall not  
286 exceed those in effect for the period ending June 30, 2013, except the  
287 rate paid to a facility may be higher than the rate paid to the facility for  
288 the period ending June 30, 2013, if a capital improvement approved by  
289 the Department of Developmental Services, in consultation with the  
290 Department of Social Services, for the health or safety of the residents  
291 was made to the facility during the fiscal year ending June 30, 2014, or  
292 June 30, 2015, to the extent such rate increases are within available  
293 appropriations. Any facility that would have been issued a lower rate

294 for the fiscal year ending June 30, 2014, or the fiscal year ending June  
295 30, 2015, due to interim rate status or agreement with the department,  
296 shall be issued such lower rate. For the fiscal years ending June 30,  
297 2016, and June 30, 2017, rates shall not exceed those in effect for the  
298 period ending June 30, 2015, except the rate paid to a facility may be  
299 higher than the rate paid to the facility for the period ending June 30,  
300 2015, if a capital improvement approved by the Department of  
301 Developmental Services, in consultation with the Department of Social  
302 Services, for the health or safety of the residents was made to the  
303 facility during the fiscal year ending June 30, 2016, or June 30, 2017, to  
304 the extent such rate increases are within available appropriations. For  
305 the fiscal years ending June 30, 2016, and June 30, 2017, and each  
306 succeeding fiscal year, any facility that would have been issued a  
307 lower rate, due to interim rate status, a change in allowable fair rent or  
308 agreement with the department, shall be issued such lower rate. For  
309 the fiscal years ending June 30, 2018, and June 30, 2019, rates shall not  
310 exceed those in effect for the period ending June 30, 2017, except the  
311 rate paid to a facility may be higher than the rate paid to the facility for  
312 the period ending June 30, 2017, if a capital improvement approved by  
313 the Department of Developmental Services, in consultation with the  
314 Department of Social Services, for the health or safety of the residents  
315 was made to the facility during the fiscal year ending June 30, 2018, or  
316 June 30, 2019, only to the extent such rate increases are within available  
317 appropriations. For the fiscal years ending June 30, 2020, and June 30,  
318 2021, rates shall not exceed those in effect for the fiscal year ending  
319 June 30, 2019, except the rate paid to a facility may be higher than the  
320 rate paid to the facility for the fiscal year ending June 30, 2019, if a  
321 capital improvement approved by the Department of Developmental  
322 Services, in consultation with the Department of Social Services, for the  
323 health or safety of the residents was made to the facility during the  
324 fiscal year ending June 30, 2020, or June 30, 2021, only to the extent  
325 such rate increases are within available appropriations. For the fiscal  
326 year ending June 30, 2022, rates shall not exceed those in effect for the  
327 fiscal year ending June 30, 2021, except the commissioner may, in the  
328 commissioner's discretion and within available appropriations,

329 provide pro rata fair rent increases to facilities that have documented  
330 fair rent additions placed in service in the cost report year ending  
331 September 30, 2020, that are not otherwise included in rates issued. For  
332 the fiscal year ending June 30, 2023, rates shall not exceed those in  
333 effect for the fiscal year ending June 30, 2022, except the commissioner  
334 may, in the commissioner's discretion and within available  
335 appropriations, provide pro rata fair rent increases to facilities which  
336 have documented fair rent additions placed in service in the cost  
337 report year ending September 30, 2021, that are not otherwise included  
338 in rates issued. For the fiscal years ending June 30, 2022, and June 30,  
339 2023, a facility may receive a rate increase for a capital improvement  
340 approved by the Department of Developmental Services, in  
341 consultation with the Department of Social Services, for the health or  
342 safety of the residents during the fiscal year ending June 30, 2022, or  
343 June 30, 2023, only to the extent such rate increases are within available  
344 appropriations. For the fiscal years ending June 30, 2024, and June 30,  
345 2025, a facility may receive a rate increase for a capital improvement  
346 approved by the Department of Developmental Services, in  
347 consultation with the Department of Social Services, for the health or  
348 safety of the residents during the fiscal year ending June 30, 2024, or  
349 June 30, 2025, only to the extent such rate increases are within available  
350 appropriations. Any facility that has a significant decrease in land and  
351 building costs shall receive a reduced rate to reflect such decrease in  
352 land and building costs. For the fiscal years ending June 30, 2012, June  
353 30, 2013, June 30, 2014, June 30, 2015, June 30, 2016, June 30, 2017, June  
354 30, 2018, June 30, 2019, June 30, 2020, June 30, 2021, June 30, 2022, [and]  
355 June 30, 2023, June 30, 2024, and June 30, 2025, the Commissioner of  
356 Social Services may provide fair rent increases to any facility that has  
357 undergone a material change in circumstances related to fair rent and  
358 has an approved certificate of need pursuant to section 17b-352, 17b-  
359 353, 17b-354 or 17b-355. Notwithstanding the provisions of this section,  
360 the Commissioner of Social Services may, within available  
361 appropriations, increase or decrease rates issued to intermediate care  
362 facilities for individuals with intellectual disabilities to reflect a  
363 reduction in available appropriations as provided in subsection (a) of

364 this section. For the fiscal years ending June 30, 2014, and June 30,  
365 2015, the commissioner shall not consider rebasing in determining  
366 rates. Notwithstanding the provisions of this subsection, effective July  
367 1, 2021, and July 1, 2022, the commissioner shall, within available  
368 appropriations, increase rates for the purpose of wage and benefit  
369 enhancements for employees of intermediate care facilities. Facilities  
370 that receive a rate adjustment for the purpose of wage and benefit  
371 enhancements but do not provide increases in employee salaries as  
372 described in this subsection on or before July 31, 2021, and July 31,  
373 2022, respectively, may be subject to a rate decrease in the same  
374 amount as the adjustment by the commissioner. The rate of inflation  
375 shall be computed based on the percentage increase, if any, in the most  
376 recent calendar year average in the gross domestic product deflator  
377 over the average for the previous calendar year. Any increase to rates  
378 based on inflation shall be applied prior to the application of any other  
379 budget adjustment factors that may impact such rates.

380 (2) The Commissioner of Social Services shall determine whether  
381 and to what extent a change in ownership of a facility shall occasion  
382 the rebasing of the facility's costs. For the fiscal year ending June 30,  
383 2024, and each subsequent fiscal year, the commissioner may, in the  
384 commissioner's discretion and within available appropriations,  
385 provide pro rata fair rent increases to facilities which have  
386 documented fair rent additions placed in service in the cost report  
387 years that are not otherwise included in rates issued.

388 Sec. 3. Subsection (i) of section 17b-340 of the general statutes is  
389 repealed and the following is substituted in lieu thereof (*Effective July*  
390 *1, 2023*):

391 (i) For the fiscal year ending June 30, 1993, any residential care home  
392 with an operating cost component of its rate in excess of one hundred  
393 thirty per cent of the median of operating cost components of rates in  
394 effect January 1, 1992, shall not receive an operating cost component  
395 increase. For the fiscal year ending June 30, 1993, any residential care  
396 home with an operating cost component of its rate that is less than one

397 hundred thirty per cent of the median of operating cost components of  
398 rates in effect January 1, 1992, shall have an allowance for real wage  
399 growth equal to sixty-five per cent of the increase determined in  
400 accordance with subsection (q) of section 17-311-52 of the regulations  
401 of Connecticut state agencies, provided such operating cost component  
402 shall not exceed one hundred thirty per cent of the median of  
403 operating cost components in effect January 1, 1992. Beginning with  
404 the fiscal year ending June 30, 1993, for the purpose of determining  
405 allowable fair rent, a residential care home with allowable fair rent less  
406 than the twenty-fifth percentile of the state-wide allowable fair rent  
407 shall be reimbursed as having allowable fair rent equal to the twenty-  
408 fifth percentile of the state-wide allowable fair rent. Beginning with the  
409 fiscal year ending June 30, 1997, a residential care home with allowable  
410 fair rent less than three dollars and ten cents per day shall be  
411 reimbursed as having allowable fair rent equal to three dollars and ten  
412 cents per day. Property additions placed in service during the cost year  
413 ending September 30, 1996, or any succeeding cost year shall receive a  
414 fair rent allowance for such additions as an addition to three dollars  
415 and ten cents per day if the fair rent for the facility for property placed  
416 in service prior to September 30, 1995, is less than or equal to three  
417 dollars and ten cents per day. Beginning with the fiscal year ending  
418 June 30, 2016, a residential care home shall be reimbursed the greater  
419 of the allowable accumulated fair rent reimbursement associated with  
420 real property additions and land as calculated on a per day basis or  
421 three dollars and ten cents per day if the allowable reimbursement  
422 associated with real property additions and land is less than three  
423 dollars and ten cents per day. For the fiscal year ending June 30, 1996,  
424 and any succeeding fiscal year, the allowance for real wage growth, as  
425 determined in accordance with subsection (q) of section 17-311-52 of  
426 the regulations of Connecticut state agencies, shall not be applied. For  
427 the fiscal year ending June 30, 1996, and any succeeding fiscal year, the  
428 inflation adjustment made in accordance with subsection (p) of section  
429 17-311-52 of the regulations of Connecticut state agencies shall not be  
430 applied to real property costs. Beginning with the fiscal year ending  
431 June 30, 1997, minimum allowable patient days for rate computation

432 purposes for a residential care home with twenty-five beds or less shall  
433 be eighty-five per cent of licensed capacity. Beginning with the fiscal  
434 year ending June 30, 2002, for the purposes of determining the  
435 allowable salary of an administrator of a residential care home with  
436 sixty beds or less the department shall revise the allowable base salary  
437 to thirty-seven thousand dollars to be annually inflated thereafter in  
438 accordance with section 17-311-52 of the regulations of Connecticut  
439 state agencies. The rates for the fiscal year ending June 30, 2002, shall  
440 be based upon the increased allowable salary of an administrator,  
441 regardless of whether such amount was expended in the 2000 cost  
442 report period upon which the rates are based. Beginning with the fiscal  
443 year ending June 30, 2000, and until the fiscal year ending June 30,  
444 2009, inclusive, the inflation adjustment for rates made in accordance  
445 with subsection (p) of section 17-311-52 of the regulations of  
446 Connecticut state agencies shall be increased by two per cent, and  
447 beginning with the fiscal year ending June 30, 2002, the inflation  
448 adjustment for rates made in accordance with subsection (c) of said  
449 section shall be increased by one per cent. Beginning with the fiscal  
450 year ending June 30, 1999, for the purpose of determining the  
451 allowable salary of a related party, the department shall revise the  
452 maximum salary to twenty-seven thousand eight hundred fifty-six  
453 dollars to be annually inflated thereafter in accordance with section 17-  
454 311-52 of the regulations of Connecticut state agencies and beginning  
455 with the fiscal year ending June 30, 2001, such allowable salary shall be  
456 computed on an hourly basis and the maximum number of hours  
457 allowed for a related party other than the proprietor shall be increased  
458 from forty hours to forty-eight hours per work week. For the fiscal  
459 year ending June 30, 2005, each facility shall receive a rate that is two  
460 and one-quarter per cent more than the rate the facility received in the  
461 prior fiscal year, except any facility that would have been issued a  
462 lower rate effective July 1, 2004, than for the fiscal year ending June 30,  
463 2004, due to interim rate status or agreement with the department shall  
464 be issued such lower rate effective July 1, 2004. Effective upon receipt  
465 of all the necessary federal approvals to secure federal financial  
466 participation matching funds associated with the rate increase

467 provided in subdivision (4) of subsection (f) of this section, but in no  
468 event earlier than October 1, 2005, and provided the user fee imposed  
469 under section 17b-320 is required to be collected, each facility shall  
470 receive a rate that is determined in accordance with applicable law and  
471 subject to appropriations, except any facility that would have been  
472 issued a lower rate effective October 1, 2005, than for the fiscal year  
473 ending June 30, 2005, due to interim rate status or agreement with the  
474 department, shall be issued such lower rate effective October 1, 2005.  
475 Such rate increase shall remain in effect unless: (1) The federal financial  
476 participation matching funds associated with the rate increase are no  
477 longer available; or (2) the user fee created pursuant to section 17b-320  
478 is not in effect. For the fiscal year ending June 30, 2007, rates in effect  
479 for the period ending June 30, 2006, shall remain in effect until  
480 September 30, 2006, except any facility that would have been issued a  
481 lower rate effective July 1, 2006, than for the fiscal year ending June 30,  
482 2006, due to interim rate status or agreement with the department,  
483 shall be issued such lower rate effective July 1, 2006. Effective October  
484 1, 2006, no facility shall receive a rate that is more than four per cent  
485 greater than the rate in effect for the facility on September 30, 2006,  
486 except for any facility that would have been issued a lower rate  
487 effective October 1, 2006, due to interim rate status or agreement with  
488 the department, shall be issued such lower rate effective October 1,  
489 2006. For the fiscal years ending June 30, 2010, and June 30, 2011, rates  
490 in effect for the period ending June 30, 2009, shall remain in effect until  
491 June 30, 2011, except any facility that would have been issued a lower  
492 rate for the fiscal year ending June 30, 2010, or the fiscal year ending  
493 June 30, 2011, due to interim rate status or agreement with the  
494 department, shall be issued such lower rate, except (A) any facility that  
495 would have been issued a lower rate for the fiscal year ending June 30,  
496 2010, or the fiscal year ending June 30, 2011, due to interim rate status  
497 or agreement with the Commissioner of Social Services shall be issued  
498 such lower rate; and (B) the commissioner may increase a facility's rate  
499 for reasonable costs associated with such facility's compliance with the  
500 provisions of section 19a-495a concerning the administration of  
501 medication by unlicensed personnel. For the fiscal year ending June 30,

502 2012, rates in effect for the period ending June 30, 2011, shall remain in  
503 effect until June 30, 2012, except that (i) any facility that would have  
504 been issued a lower rate for the fiscal year ending June 30, 2012, due to  
505 interim rate status or agreement with the Commissioner of Social  
506 Services shall be issued such lower rate; and (ii) the commissioner may  
507 increase a facility's rate for reasonable costs associated with such  
508 facility's compliance with the provisions of section 19a-495a  
509 concerning the administration of medication by unlicensed personnel.  
510 For the fiscal year ending June 30, 2013, the Commissioner of Social  
511 Services may, within available appropriations, provide a rate increase  
512 to a residential care home. Any facility that would have been issued a  
513 lower rate for the fiscal year ending June 30, 2013, due to interim rate  
514 status or agreement with the Commissioner of Social Services shall be  
515 issued such lower rate. For the fiscal years ending June 30, 2012, and  
516 June 30, 2013, the Commissioner of Social Services may provide fair  
517 rent increases to any facility that has undergone a material change in  
518 circumstances related to fair rent and has an approved certificate of  
519 need pursuant to section 17b-352, 17b-353, 17b-354 or 17b-355. For the  
520 fiscal years ending June 30, 2014, and June 30, 2015, for those facilities  
521 that have a calculated rate greater than the rate in effect for the fiscal  
522 year ending June 30, 2013, the commissioner may increase facility rates  
523 based upon available appropriations up to a stop gain as determined  
524 by the commissioner. No facility shall be issued a rate that is lower  
525 than the rate in effect on June 30, 2013, except that any facility that  
526 would have been issued a lower rate for the fiscal year ending June 30,  
527 2014, or the fiscal year ending June 30, 2015, due to interim rate status  
528 or agreement with the commissioner, shall be issued such lower rate.  
529 For the fiscal year ending June 30, 2014, and each fiscal year thereafter,  
530 a residential care home shall receive a rate increase for any capital  
531 improvement made during the fiscal year for the health and safety of  
532 residents and approved by the Department of Social Services,  
533 provided such rate increase is within available appropriations. For the  
534 fiscal year ending June 30, 2015, and each succeeding fiscal year  
535 thereafter, costs of less than ten thousand dollars that are incurred by a  
536 facility and are associated with any land, building or nonmovable



537 equipment repair or improvement that are reported in the cost year  
538 used to establish the facility's rate shall not be capitalized for a period  
539 of more than five years for rate-setting purposes. For the fiscal year  
540 ending June 30, 2015, subject to available appropriations, the  
541 commissioner may, at the commissioner's discretion: Increase the  
542 inflation cost limitation under subsection (c) of section 17-311-52 of the  
543 regulations of Connecticut state agencies, provided such inflation  
544 allowance factor does not exceed a maximum of five per cent; establish  
545 a minimum rate of return applied to real property of five per cent  
546 inclusive of assets placed in service during cost year 2013; waive the  
547 standard rate of return under subsection (f) of section 17-311-52 of the  
548 regulations of Connecticut state agencies for ownership changes or  
549 health and safety improvements that exceed one hundred thousand  
550 dollars and that are required under a consent order from the  
551 Department of Public Health; and waive the rate of return adjustment  
552 under subsection (f) of section 17-311-52 of the regulations of  
553 Connecticut state agencies to avoid financial hardship. For the fiscal  
554 years ending June 30, 2016, and June 30, 2017, rates shall not exceed  
555 those in effect for the period ending June 30, 2015, except the  
556 commissioner may, in the commissioner's discretion and within  
557 available appropriations, provide pro rata fair rent increases to  
558 facilities which have documented fair rent additions placed in service  
559 in cost report years ending September 30, 2014, and September 30,  
560 2015, that are not otherwise included in rates issued. For the fiscal  
561 years ending June 30, 2016, and June 30, 2017, and each succeeding  
562 fiscal year, any facility that would have been issued a lower rate, due  
563 to interim rate status, a change in allowable fair rent or agreement with  
564 the department, shall be issued such lower rate. For the fiscal year  
565 ending June 30, 2018, rates shall not exceed those in effect for the  
566 period ending June 30, 2017, except the commissioner may, in the  
567 commissioner's discretion and within available appropriations,  
568 provide pro rata fair rent increases to facilities which have  
569 documented fair rent additions placed in service in the cost report year  
570 ending September 30, 2016, that are not otherwise included in rates  
571 issued. For the fiscal year ending June 30, 2019, rates shall not exceed

572 those in effect for the period ending June 30, 2018, except the  
573 commissioner may, in the commissioner's discretion and within  
574 available appropriations, provide pro rata fair rent increases to  
575 facilities which have documented fair rent additions placed in service  
576 in the cost report year ending September 30, 2017, that are not  
577 otherwise included in rates issued. For the fiscal year ending June 30,  
578 2020, rates shall not exceed those in effect for the fiscal year ending  
579 June 30, 2019, except the commissioner may, in the commissioner's  
580 discretion and within available appropriations, provide pro rata fair  
581 rent increases to facilities which have documented fair rent additions  
582 placed in service in the cost report year ending September 30, 2018,  
583 that are not otherwise included in rates issued. For the fiscal year  
584 ending June 30, 2021, rates shall not exceed those in effect for the fiscal  
585 year ending June 30, 2020, except the commissioner may, in the  
586 commissioner's discretion and within available appropriations,  
587 provide pro rata fair rent increases to facilities which have  
588 documented fair rent additions placed in service in the cost report year  
589 ending September 30, 2019, that are not otherwise included in rates  
590 issued. For the fiscal year ending June 30, 2022, the commissioner may,  
591 in the commissioner's discretion and within available appropriations,  
592 provide pro rata fair rent increases to facilities that have documented  
593 fair rent additions placed in service in the cost report year ending  
594 September 30, 2020, that are not otherwise included in rates issued. For  
595 the fiscal year ending June 30, 2023, the commissioner may, in the  
596 commissioner's discretion and within available appropriations,  
597 provide pro rata fair rent increases to facilities which have  
598 documented fair rent additions placed in service in the cost report year  
599 ending September 30, 2021, that are not otherwise included in rates  
600 issued. For the fiscal years ending June 30, 2022, and June 30, 2023, a  
601 facility may receive a rate increase for a capital improvement approved  
602 by the Department of Social Services, for the health or safety of the  
603 residents during the fiscal year ending June 30, 2022, or June 30, 2023,  
604 only to the extent such rate increases are within available  
605 appropriations. For the fiscal year ending June 30, 2022, and June 30,  
606 2023, rates shall be based upon rates in effect for the fiscal year ending

607 June 30, 2021, inflated by the gross domestic product deflator  
608 applicable to each rate year, except the commissioner may, in the  
609 commissioner's discretion and within available appropriations,  
610 provide pro rata fair rent increases to facilities which have  
611 documented fair rent additions placed in service in the cost report  
612 years ending September 30, 2020, and September 30, 2021, that are not  
613 otherwise included in rates issued. The rate of inflation shall be  
614 computed based on the percentage increase, if any, in the most recent  
615 calendar year average in the gross domestic product deflator over the  
616 average for the previous calendar year. Any increase to rates based on  
617 inflation shall be applied prior to the application of any other budget  
618 adjustment factors that may impact such rates. The commissioner shall  
619 determine whether and to what extent a change in ownership of a  
620 facility shall occasion the rebasing of the facility's costs. For the fiscal  
621 years ending June 30, 2024, and June 30, 2025, a facility may receive a  
622 rate increase for a capital improvement approved by the Department  
623 of Social Services, for the health or safety of the residents during the  
624 fiscal year ending June 30, 2024, or June 30, 2025, only to the extent  
625 such rate increases are within available appropriations. For the fiscal  
626 year ending June 30, 2024, the commissioner may, in the  
627 commissioner's discretion and within available appropriations,  
628 provide pro rata fair rent increases to facilities that have documented  
629 fair rent additions placed in service in the cost report year ending  
630 September 30, 2022, that are not otherwise included in rates issued. For  
631 the fiscal year ending June 30, 2025, the commissioner may, in the  
632 commissioner's discretion and within available appropriations,  
633 provide pro rata fair rent increases to facilities that have documented  
634 fair rent additions placed in service in the cost report year ending  
635 September 30, 2023, that are not otherwise included in rates issued.

636 Sec. 4. Subsection (a) of section 17b-340 of the general statutes is  
637 repealed and the following is substituted in lieu thereof (*Effective from*  
638 *passage*):

639 (a) For purposes of this subsection, (1) a "related party" includes, but

640 is not limited to, any company related to a chronic and convalescent  
641 nursing home through family association, common ownership, control  
642 or business association with any of the owners, operators or officials of  
643 such nursing home; (2) "company" means any person, partnership,  
644 association, holding company, limited liability company or  
645 corporation; (3) "family association" means a relationship by birth,  
646 marriage or domestic partnership; and (4) "profit and loss statement"  
647 means the most recent annual statement on profits and losses finalized  
648 by a related party before the annual report mandated under this  
649 subsection. The rates to be paid by or for persons aided or cared for by  
650 the state or any town in this state to licensed chronic and convalescent  
651 nursing homes, to chronic disease hospitals associated with chronic  
652 and convalescent nursing homes, to rest homes with nursing  
653 supervision, to licensed residential care homes, as defined by section  
654 19a-490, and to residential facilities for persons with intellectual  
655 disability that are licensed pursuant to section 17a-227 and certified to  
656 participate in the Title XIX Medicaid program as intermediate care  
657 facilities for individuals with intellectual disabilities, for room, board  
658 and services specified in licensing regulations issued by the licensing  
659 agency shall be determined annually, except as otherwise provided in  
660 this subsection by the Commissioner of Social Services, to be effective  
661 July first of each year except as otherwise provided in this subsection.  
662 Such rates shall be determined on a basis of a reasonable payment for  
663 such necessary services, which basis shall take into account as a factor  
664 the costs of such services. Cost of such services shall include  
665 reasonable costs mandated by collective bargaining agreements with  
666 certified collective bargaining agents or other agreements between the  
667 employer and employees, provided "employees" shall not include  
668 persons employed as managers or chief administrators or required to  
669 be licensed as nursing home administrators, and compensation for  
670 services rendered by proprietors at prevailing wage rates, as  
671 determined by application of principles of accounting as prescribed by  
672 said commissioner. Cost of such services shall not include amounts  
673 paid by the facilities to employees as salary, or to attorneys or  
674 consultants as fees, where the responsibility of the employees,

675 attorneys, or consultants is to persuade or seek to persuade the other  
676 employees of the facility to support or oppose unionization. Nothing  
677 in this subsection shall prohibit inclusion of amounts paid for legal  
678 counsel related to the negotiation of collective bargaining agreements,  
679 the settlement of grievances or normal administration of labor  
680 relations. The commissioner may, in the commissioner's discretion,  
681 allow the inclusion of extraordinary and unanticipated costs of  
682 providing services that were incurred to avoid an immediate negative  
683 impact on the health and safety of patients. The commissioner may, in  
684 the commissioner's discretion, based upon review of a facility's costs,  
685 direct care staff to patient ratio and any other related information,  
686 revise a facility's rate for any increases or decreases to total licensed  
687 capacity of more than ten beds or changes to its number of licensed  
688 rest home with nursing supervision beds and chronic and convalescent  
689 nursing home beds. The commissioner may, in the commissioner's  
690 discretion, revise the rate of a facility that is closing. An interim rate  
691 issued for the period during which a facility is closing shall be based  
692 on a review of facility costs, the expected duration of the close-down  
693 period, the anticipated impact on Medicaid costs, available  
694 appropriations and the relationship of the rate requested by the facility  
695 to the average Medicaid rate for a close-down period. The  
696 commissioner may so revise a facility's rate established for the fiscal  
697 year ending June 30, 1993, and thereafter for any bed increases,  
698 decreases or changes in licensure effective after October 1, 1989.  
699 Effective July 1, 1991, in facilities that have both a chronic and  
700 convalescent nursing home and a rest home with nursing supervision,  
701 the rate for the rest home with nursing supervision shall not exceed  
702 such facility's rate for its chronic and convalescent nursing home. All  
703 such facilities for which rates are determined under this subsection  
704 shall report on a fiscal year basis ending on September thirtieth. Such  
705 report shall be submitted to the commissioner by February fifteenth.  
706 Each for-profit chronic and convalescent nursing home that receives  
707 state funding pursuant to this section shall include in such annual  
708 report a profit and loss statement from each related party that receives  
709 from such chronic and convalescent nursing home fifty thousand

710 dollars or more per year for goods, fees and services. No cause of  
711 action or liability shall arise against the state, the Department of Social  
712 Services, any state official or agent for failure to take action based on  
713 the information required to be reported under this subsection. The  
714 commissioner may reduce the rate in effect for a facility that fails to  
715 submit a complete and accurate report on or before February fifteenth  
716 by an amount not to exceed ten per cent of such rate. If a licensed  
717 residential care home fails to submit a complete and accurate report,  
718 the department shall notify such home of the failure and the home  
719 shall have thirty days from the date the notice was issued to submit a  
720 complete and accurate report. If a licensed residential care home fails  
721 to submit a complete and accurate report not later than thirty days  
722 after the date of notice, such home may not receive a retroactive rate  
723 increase, in the commissioner's discretion. The commissioner shall,  
724 annually, on or before April first, report the data contained in the  
725 reports of such facilities on the department's Internet web site. For the  
726 cost reporting year commencing October 1, 1985, and for subsequent  
727 cost reporting years, facilities shall report the cost of using the services  
728 of any nursing personnel supplied by a temporary nursing services  
729 agency by separating said cost into two categories, the portion of the  
730 cost equal to the salary of the employee for whom the nursing  
731 personnel supplied by a temporary nursing services agency is  
732 substituting shall be considered a nursing cost and any cost in excess  
733 of such salary shall be further divided so that seventy-five per cent of  
734 the excess cost shall be considered an administrative or general cost  
735 and twenty-five per cent of the excess cost shall be considered a  
736 nursing cost, provided if the total costs of a facility for nursing  
737 personnel supplied by a temporary nursing services agency in any cost  
738 year are equal to or exceed fifteen per cent of the total nursing  
739 expenditures of the facility for such cost year, no portion of such costs  
740 in excess of fifteen per cent shall be classified as administrative or  
741 general costs. The commissioner, in determining such rates, shall also  
742 take into account the classification of patients or boarders according to  
743 special care requirements or classification of the facility according to  
744 such factors as facilities and services and such other factors as the

745 commissioner deems reasonable, including anticipated fluctuations in  
746 the cost of providing such services. The commissioner may establish a  
747 separate rate for a facility or a portion of a facility for traumatic brain  
748 injury patients who require extensive care but not acute general  
749 hospital care. Such separate rate shall reflect the special care  
750 requirements of such patients. If changes in federal or state laws,  
751 regulations or standards adopted subsequent to June 30, 1985, result in  
752 increased costs or expenditures in an amount exceeding one-half of  
753 one per cent of allowable costs for the most recent cost reporting year,  
754 the commissioner shall adjust rates and provide payment for any such  
755 increased reasonable costs or expenditures within a reasonable period  
756 of time retroactive to the date of enforcement. Nothing in this section  
757 shall be construed to require the Department of Social Services to  
758 adjust rates and provide payment for any increases in costs resulting  
759 from an inspection of a facility by the Department of Public Health.  
760 Such assistance as the commissioner requires from other state agencies  
761 or departments in determining rates shall be made available to the  
762 commissioner at the commissioner's request. Payment of the rates  
763 established pursuant to this section shall be conditioned on the  
764 establishment by such facilities of admissions procedures that conform  
765 with this section, section 19a-533 and all other applicable provisions of  
766 the law and the provision of equality of treatment to all persons in  
767 such facilities. The established rates shall be the maximum amount  
768 chargeable by such facilities for care of such beneficiaries, and the  
769 acceptance by or on behalf of any such facility of any additional  
770 compensation for care of any such beneficiary from any other person  
771 or source shall constitute the offense of aiding a beneficiary to obtain  
772 aid to which the beneficiary is not entitled and shall be punishable in  
773 the same manner as is provided in subsection (b) of section 17b-97.  
774 Notwithstanding any provision of this section, the Commissioner of  
775 Social Services may, within available appropriations, provide an  
776 interim rate increase for a licensed chronic and convalescent nursing  
777 home or a rest home with nursing supervision for rate periods no  
778 earlier than April 1, 2004, only if the commissioner determines that the  
779 increase is necessary to avoid the filing of a petition for relief under

780 Title 11 of the United States Code; imposition of receivership pursuant  
781 to sections 19a-542 and 19a-543; or substantial deterioration of the  
782 facility's financial condition that may be expected to adversely affect  
783 resident care and the continued operation of the facility, and the  
784 commissioner determines that the continued operation of the facility is  
785 in the best interest of the state. The commissioner shall consider any  
786 requests for interim rate increases on file with the department from  
787 March 30, 2004, and those submitted subsequently for rate periods no  
788 earlier than April 1, 2004. When reviewing an interim rate increase  
789 request the commissioner shall, at a minimum, consider: (A) Existing  
790 chronic and convalescent nursing home or rest home with nursing  
791 supervision utilization in the area and projected bed need; (B) physical  
792 plant long-term viability and the ability of the owner or purchaser to  
793 implement any necessary property improvements; (C) licensure and  
794 certification compliance history; (D) reasonableness of actual and  
795 projected expenses; and (E) the ability of the facility to meet wage and  
796 benefit costs. No interim rate shall be increased pursuant to this  
797 subsection in excess of one hundred fifteen per cent of the median rate  
798 for the facility's peer grouping, established pursuant to subdivision [(2)  
799 of subsection (f) of this section] (3) of subsection (a) of section 17b-  
800 340d, as amended by this act, unless recommended by the  
801 commissioner and approved by the Secretary of the Office of Policy  
802 and Management after consultation with the commissioner. Such  
803 median rates shall be published by the Department of Social Services  
804 not later than April first of each year. In the event that a facility  
805 granted an interim rate increase pursuant to this section is sold or  
806 otherwise conveyed for value to an unrelated entity less than five years  
807 after the effective date of such rate increase, the rate increase shall be  
808 deemed rescinded and the department shall recover an amount equal  
809 to the difference between payments made for all affected rate periods  
810 and payments that would have been made if the interim rate increase  
811 was not granted. The commissioner may seek recovery of such  
812 payments from any facility with common ownership. With the  
813 approval of the Secretary of the Office of Policy and Management, the  
814 commissioner may waive recovery and rescission of the interim rate



815 for good cause shown that is not inconsistent with this section,  
816 including, but not limited to, transfers to family members that were  
817 made for no value. The commissioner shall provide written quarterly  
818 reports to the joint standing committees of the General Assembly  
819 having cognizance of matters relating to aging, human services and  
820 appropriations and the budgets of state agencies, that identify each  
821 facility requesting an interim rate increase, the amount of the  
822 requested rate increase for each facility, the action taken by the  
823 commissioner and the secretary pursuant to this subsection, and  
824 estimates of the additional cost to the state for each approved interim  
825 rate increase. Nothing in this subsection shall prohibit the  
826 commissioner from increasing the rate of a licensed chronic and  
827 convalescent nursing home or a rest home with nursing supervision  
828 for allowable costs associated with facility capital improvements or  
829 increasing the rate in case of a sale of a licensed chronic and  
830 convalescent nursing home or a rest home with nursing supervision if  
831 receivership has been imposed on such home. For purposes of this  
832 section, "temporary nursing services agency" and "nursing personnel"  
833 have the same meaning as provided in section 19a-118.

834 Sec. 5. Subsection (a) of section 17b-340d of the general statutes is  
835 repealed and the following is substituted in lieu thereof (*Effective from*  
836 *passage*):

837 (a) The Commissioner of Social Services shall implement an acuity-  
838 based methodology for Medicaid reimbursement of nursing home  
839 services effective July 1, 2022. Notwithstanding section 17b-340, as  
840 amended by this act, for the fiscal year ending June 30, 2023, and  
841 annually thereafter, the Commissioner of Social Services shall establish  
842 Medicaid rates paid to nursing home facilities based on cost years  
843 ending on September thirtieth in accordance with the following:

844 (1) Case-mix adjustments to the direct care component, which will  
845 be based on Minimum Data Set resident assessment data as well as  
846 cost data reported for the cost year ending September 30, 2019, shall be  
847 made effective beginning July 1, 2022, and updated every quarter

848 thereafter. After modeling such case-mix adjustments, the  
849 Commissioner of Social Services shall evaluate impact on a facility by  
850 facility basis and, not later than October 1, 2021, (A) make  
851 recommendations to the Secretary of the Office of Policy and  
852 Management, and (B) submit a report on the recommendations, in  
853 accordance with the provisions of section 11-4a, to the joint standing  
854 committees of the General Assembly having cognizance of matters  
855 relating to appropriations and the budgets of state agencies and  
856 human services on any adjustments needed to facilitate the transition  
857 to the new methodology on July 1, 2022. This evaluation may include a  
858 review of inflationary allowances, case mix and budget adjustment  
859 factors and stop loss and stop gain corridors and the ability to make  
860 such adjustments within available appropriations.

861 (2) Beginning July 1, 2022, facilities will be required to comply with  
862 collection and reporting of quality metrics as specified by the  
863 Department of Social Services, after consultation with the nursing  
864 home industry, consumers, employees and the Department of Public  
865 Health. Rate adjustments based on performance on quality metrics will  
866 be phased in, beginning July 1, 2022, with a period of reporting only.

867 (3) Geographic peer groupings of facilities shall be established by  
868 the Department of Social Services pursuant to regulations adopted in  
869 accordance with subsection (b) of this section.

870 (4) Allowable costs shall be divided into the following five cost  
871 components: (A) Direct costs, which shall include salaries for nursing  
872 personnel, related fringe benefits and costs for nursing personnel  
873 supplied by a temporary nursing services agency; (B) indirect costs,  
874 which shall include professional fees, dietary expenses, housekeeping  
875 expenses, laundry expenses, supplies related to patient care, salaries  
876 for indirect care personnel and related fringe benefits; (C) fair rent,  
877 which shall be defined in regulations adopted in accordance with  
878 subsection (b) of this section; (D) capital-related costs, which shall  
879 include property taxes, insurance expenses, equipment leases and  
880 equipment depreciation; and (E) administrative and general costs,

881 which shall include maintenance and operation of plant expenses,  
882 salaries for administrative and maintenance personnel and related  
883 fringe benefits. For (i) direct costs, the maximum cost shall be equal to  
884 one hundred thirty-five per cent of the median allowable cost of that  
885 peer grouping; (ii) indirect costs, the maximum cost shall be equal to  
886 one hundred fifteen per cent of the state-wide median allowable cost;  
887 (iii) fair rent, the amount shall be calculated utilizing the amount  
888 approved pursuant to section 17b-353; (iv) capital-related costs, there  
889 shall be no maximum; and (v) administrative and general costs, the  
890 maximum shall be equal to the state-wide median allowable cost. For  
891 purposes of this subdivision, "temporary nursing services agency" and  
892 "nursing personnel" have the same meaning as provided in section  
893 19a-118.

894 (5) Costs in excess of the maximum amounts established under this  
895 subsection shall not be recognized as allowable costs, except that the  
896 commissioner may establish rates whereby allowable costs may exceed  
897 such maximum amounts for beds which are restricted to use by  
898 patients with acquired immune deficiency syndrome, traumatic brain  
899 injury or other specialized services.

900 [(5) For the fiscal year ending] (6) On or after June 30, 2022, the  
901 commissioner may, in the commissioner's discretion and within  
902 available appropriations, provide pro rata fair rent increases to  
903 facilities which have documented fair rent additions placed in service  
904 in the most recently filed cost report [year ending September 30, 2020,]  
905 that are not otherwise included in the rates issued. The commissioner  
906 may provide, within available appropriations, pro rata fair rent  
907 increases, which may, at the discretion of the commissioner, include  
908 increases for facilities that have undergone a material change in  
909 circumstances related to fair rent additions in the most recently filed  
910 cost report.

911 (7) For the purpose of determining allowable fair rent, a facility with  
912 allowable fair rent less than the twenty-fifth percentile of the state-  
913 wide allowable fair rent shall be reimbursed as having allowable fair

914 rent equal to the twenty-fifth percentile of the state-wide allowable fair  
915 rent. Any facility with a rate of return on real property other than land  
916 in excess of eleven per cent shall have such allowance revised to eleven  
917 per cent. Any facility or its related realty affiliate which finances or  
918 refinances debt through bonds issued by the Connecticut Health and  
919 Education Facilities Authority shall report the terms and conditions of  
920 such financing or refinancing to the Commissioner of Social Services  
921 not later than thirty days after completing such financing or  
922 refinancing. The commissioner may revise the facility's fair rent  
923 component of its rate to reflect any financial benefit the facility or its  
924 related realty affiliate received as a result of such financing or  
925 refinancing. The commissioner shall determine allowable fair rent for  
926 real property other than land based on the rate of return for the cost  
927 year in which such bonds were issued. The financial benefit resulting  
928 from a facility financing or refinancing debt through such bonds shall  
929 be shared between the state and the facility to an extent determined by  
930 the commissioner on a case-by-case basis and shall be reflected in an  
931 adjustment to the facility's allowable fair rent.

932 (8) A facility shall receive cost efficiency adjustments for indirect  
933 costs and for administrative and general costs if such costs are below  
934 the state-wide median costs. The cost efficiency adjustments shall  
935 equal twenty-five per cent of the difference between allowable  
936 reported costs and the applicable median allowable cost established  
937 pursuant to subdivision (4) of this subsection.

938 (9) On and after July 1, 2025, costs shall be rebased no more  
939 frequently than every two years and no less frequently than every four  
940 years, as determined by the commissioner, within available  
941 appropriations. The commissioner shall determine whether and to  
942 what extent a change in ownership of a facility shall occasion the  
943 rebasings of the facility's costs.

944 (10) The method of establishing rates for new facilities shall be  
945 determined by the commissioner in accordance with the provisions of  
946 this subsection.

947 [(6)] (11) There shall be no increase to rates based on inflation or any  
948 inflationary factor for the fiscal years ending June 30, 2022, and June  
949 30, 2023, unless otherwise authorized under subdivision (1) of this  
950 subsection. Notwithstanding any other provisions of the general  
951 statutes or regulations adopted thereunder, allowable operating costs,  
952 excluding fair rent, shall be inflated by the gross domestic product  
953 deflator when funding is specifically appropriated for such purposes  
954 in the enacted budget. The rate of inflation shall be computed by  
955 comparing the most recent rate year to the average of the gross  
956 domestic product deflator for the previous four fiscal quarters ending  
957 April thirtieth. Any increase to rates based on inflation shall be applied  
958 prior to the application of any other budget adjustment factors that  
959 may impact such rates.

960 [(7)] (12) For purposes of computing minimum allowable patient  
961 days, utilization of a facility's certified beds shall be determined at a  
962 minimum of ninety per cent of capacity, except for facilities that have  
963 undergone a change in ownership, new facilities, and facilities which  
964 are certified for additional beds which may be permitted a lower  
965 occupancy rate for the first three months of operation after the effective  
966 date of licensure.

967 [(8)] (13) Rates determined under this section shall comply with  
968 federal laws and regulations.

969 (14) The Commissioner of Social Services may authorize an interim  
970 rate for a facility demonstrating individual, facility-specific  
971 circumstances impacting facility finances or costs not reflected in the  
972 underlying rates. There shall be no rate withholds pursuant to the  
973 implementation of a value-based payment system for the fiscal years  
974 ending June 30, 2024, and June 30, 2025.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2023	17b-244

Sec. 2	<i>July 1, 2023</i>	17b-340(h)
Sec. 3	<i>July 1, 2023</i>	17b-340(i)
Sec. 4	<i>from passage</i>	17b-340(a)
Sec. 5	<i>from passage</i>	17b-340d(a)

**HS**

*Joint Favorable Subst. C/R*

APP