

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-1051.01 Debbie Haskins

HOUSE BILL 10-1384

HOUSE SPONSORSHIP

Lambert, Ferrandino, Pommer

SENATE SPONSORSHIP

White, Keller, Tapia

House Committees
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ALIGNMENT OF ELIGIBILITY FOR THE OLD AGE
102 PENSION PROGRAM WITH ELIGIBILITY FOR OTHER PUBLIC
103 BENEFIT PROGRAMS, AND, IN CONNECTION THEREWITH,
104 ALIGNING THE WAITING PERIOD FOR THE OLD AGE PENSION
105 WITH THE WAITING PERIOD FOR OTHER PUBLIC BENEFIT
106 PROGRAMS, ENFORCING FINANCIAL RESPONSIBILITY
107 REQUIREMENTS FOR RELATIVE SPONSORS OF NONCITIZENS, AND
108 MAKING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that

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

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Budget Package Bill. Sections 1 and 2. The federal "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" requires a 5-year waiting period for access to public benefits for all qualified aliens except those subject to specific federal exclusions. Current state law has a 3-year waiting period for the old age pension (OAP) for qualified aliens. Sections 1 and 2 of the bill conform the waiting period for OAP for qualified aliens with the federal 5-year waiting period. Sections 1 and 2 take effect July 1, 2010.

Sections 3 -5. Colorado law requires the enforcement of financial responsibility requirements on people who sponsor the entry of noncitizens - qualified aliens - into the United States for the noncitizen to be eligible for public benefits, including the temporary assistance for needy families program, aid to the needy disabled, and aid to the blind. Sections 3, 4, and 5 of the bill align the noncitizen eligibility for the OAP with those financial responsibility requirements.

Sections 3, 4, and 5 of the bill eliminate conflicting statutory provisions for determining eligibility of noncitizens for OAP by eliminating the language that allows qualified aliens to be eligible for OAP without regard to a relative sponsor's income or resources. Under the bill, the income and resources of *all* sponsors (relatives and non-relatives) of a qualified alien will be counted in determining the eligibility for the OAP. This change in the statute will remove most sponsored noncitizens from the OAP. However, it will not affect refugees or other groups who are exempted from such requirements under federal law. Sections 3, 4, and 5 of the bill take effect January 1, 2011, or upon the expiration of the provisions of the federal "American Reinvestment and Recovery Act" or any other federal law that restricts reimbursement of an enhanced federal medicaid assistance percentage, known as FMAP, to a state that reduces eligibility for its medicaid program, whichever is later.

The bill is drafted in **Section 1** and **Section 4** to state that the additional requirements regarding the five-year bar on receipt of benefits and the deeming of sponsor income to relative sponsors do not affect the eligibility for OAP for a qualified alien who meets the eligibility criteria for OAP:

- ! If the county department of social services determines that the qualified alien has been abandoned by or is being mistreated by his or her sponsor or is an abused spouse; or
- ! If the qualified alien is also eligible for supplemental security income benefits.

Section 5 of the bill also directs that, for benefits provided on and after January 1, 2011, or the later effective date of section 5, the

department of human services may pursue repayment from a qualified alien's sponsor for the amount of OAP provided to a qualified alien during the time that the sponsorship affidavit of support is in effect as determined by the United States citizenship and immigration services or its successor agency.

Section 6 of the bill appropriates moneys in FY 09-10 and FY10-11 to the department of health care policy and financing and to the department of human services and appropriates moneys in FY10-11 to the office of state planning and budgeting in the governor's office for the costs to make changes to the Colorado benefits management system to implement the bill. **Section 6** of the bill also makes an adjustment to the 2010 long bill to decrease moneys in the old age pension cash assistance program by \$14,108,817.

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

2 **SECTION 1.** 26-2-111 (2) (a) and (2) (c), Colorado Revised
3 Statutes, are amended to read:

4 **26-2-111. Eligibility for public assistance.** (2) **Old age**
5 **pension.** (a) Except as provided in paragraph (d) of this subsection (2),
6 public assistance in the form of the old age pension shall be granted to
7 any person who meets the requirements of subsection (1) of this section
8 and any one of the following requirements:

9 (I) The person IS A UNITED STATES CITIZEN OR A QUALIFIED ALIEN,
10 has attained the age of sixty years or more, and meets the resource
11 eligibility requirements of the federal supplemental security income
12 program; or

13 (II) Repealed.

14 (III) The person is an inmate of an institution, not penal in
15 character, maintained by the state or by a municipality therein or county
16 thereof, and the person has attained the age of sixty years or more. The
17 period of confinement as a patient in such institution shall be considered
18 as residence in the state of Colorado.

1 (c) (I) ~~No~~ EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS
2 (II) AND (III) OF THIS PARAGRAPH (c), A QUALIFIED alien ~~who has resided~~
3 ~~in the United States for less than three years~~ shall NOT be granted ~~public~~
4 ~~assistance~~ THE OLD AGE PENSION under the provisions of this subsection
5 (2) unless it is shown that:

6 (A) The person, other than a relative, who sponsored the alien's
7 entry into the United States and who satisfied sponsorship financial
8 requirements at the time of initial sponsorship now has insufficient
9 income, property, or other resources to meet the needs of the alien as
10 determined pursuant to rules and regulations of the state department; AND

11 (B) THE QUALIFIED ALIEN MEETS THE REQUIREMENTS SPECIFIED IN
12 SECTION 26-2-111.8 (2) (a) RELATING TO ENTRY INTO THE UNITED STATES
13 PRIOR TO AUGUST 22, 1996, OR THE REQUIREMENTS SPECIFIED IN SECTION
14 26-2-111.8 (2) (b) REGARDING THE FIVE-YEAR BAR ON RECEIPT OF
15 BENEFITS.

16 (II) THE REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS PARAGRAPH
17 (c) DO NOT APPLY TO A QUALIFIED ALIEN WHO MEETS THE ELIGIBILITY
18 CRITERIA FOR THE OLD AGE PENSION IN PARAGRAPH (a) OF THIS
19 SUBSECTION (2) IF THE STATE DEPARTMENT DETERMINES THAT THE
20 QUALIFIED ALIEN HAS BEEN ABANDONED BY OR IS A VICTIM OF
21 MISTREATMENT BY HIS OR HER SPONSOR OR IS AN ABUSED SPOUSE AS
22 DETERMINED PURSUANT TO RULES OF THE STATE DEPARTMENT.

23 (III) THE REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS
24 PARAGRAPH (c) DO NOT APPLY TO A QUALIFIED ALIEN WHO MEETS THE
25 ELIGIBILITY CRITERIA FOR THE OLD AGE PENSION IN PARAGRAPH (a) OF
26 THIS SUBSECTION (2) AND WHO IS ALSO ELIGIBLE FOR FEDERAL FINANCIAL
27 BENEFITS PURSUANT TO TITLE XVI OF THE FEDERAL "SOCIAL SECURITY

1 ACT".

2 **SECTION 2.** 26-2-111.8 (1), (2), (3), (4), and (5), Colorado
3 Revised Statutes, are amended to read:

4 **26-2-111.8. Eligibility of noncitizens for public assistance.**

5 (1) (a) The general assembly hereby finds and declares that passage of
6 the federal "Personal Responsibility and Work Opportunity
7 Reconciliation Act of 1996", Public Law 104-193, requires the states to
8 make certain decisions concerning ~~legal immigrants~~ QUALIFIED ALIENS
9 and their eligibility for certain types of public assistance.

10 (b) The goal of this section is to recognize that foreign-born legal
11 residents of the state of Colorado contribute to our society by working in
12 our communities, supporting local businesses, and paying taxes and
13 should receive certain types of public assistance for certain types of
14 situations. Moreover, the state goal is to provide the types of assistance
15 that will enhance the state's ability to receive federal financial
16 participation, thereby reducing the ultimate burden on the state and local
17 government for emergency health and welfare needs.

18 (c) This section is also intended to encourage and support efforts
19 to help foreign-born legal residents of the state of Colorado to become
20 citizens of the United States.

21 (2) (a) **Entry requirements.** A qualified alien who entered the
22 United States before August 22, 1996, AND WHO MEETS THE ELIGIBILITY
23 CRITERIA SPECIFIED FOR A PARTICULAR PUBLIC ASSISTANCE PROGRAM
24 shall be eligible to receive ~~benefits~~ PUBLIC ASSISTANCE under a ~~state~~
25 ~~program funded by temporary assistance for needy families block grant~~
26 ~~funds under part A of Title IV of the federal "Social Security Act"~~ THE
27 FOLLOWING PROGRAMS AS DESCRIBED IN THIS ARTICLE:

- 1 (I) THE COLORADO WORKS PROGRAM;
- 2 (II) THE OLD AGE PENSION;
- 3 (III) AID TO THE NEEDY DISABLED; OR
- 4 (IV) AID TO THE BLIND.

5 (b) **Five-year bar on receipt of benefits.** A qualified alien who
6 entered the United States on or after August 22, 1996, shall be barred
7 from receiving the benefits described in paragraph (a) of this subsection
8 (2) for a period of five years after the date of entry into the United States,
9 unless he or she meets the exceptions set forth in the federal "Personal
10 Responsibility and Work Opportunity Reconciliation Act of 1996", Public
11 Law 104-193, as amended.

12 (c) **Deeming of sponsor income and resources.** After five years,
13 ~~such~~ A qualified alien DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION
14 (2) shall be eligible for benefits under this article, but shall have sponsor
15 income AND RESOURCES deemed to the individual or family under rules
16 established by the state ~~board~~ DEPARTMENT pursuant to ~~section 26-2-137~~
17 SECTION 26-2-137 (2).

18 (3) ~~A legal immigrant may receive benefits under the old age~~
19 ~~pension, the aid to the needy disabled, and the aid to the blind programs~~
20 ~~if such legal immigrant meets the eligibility criteria, including the sponsor~~
21 ~~responsibility policies, in section 26-2-137 (2) of such programs, other~~
22 ~~than citizen status.~~

23 (4) A ~~legal immigrant~~ QUALIFIED ALIEN may receive benefits
24 under section 26-2-122.3 pursuant to rules promulgated by the ~~medical~~
25 ~~services board~~ STATE DEPARTMENT.

26 (5) As a condition of eligibility for public assistance under this
27 article, a ~~legal immigrant~~ QUALIFIED ALIEN shall agree to refrain from

1 executing an affidavit of support for the purpose of sponsoring an alien
2 on or after July 1, 1997, under rules promulgated by the immigration and
3 naturalization service OR ITS SUCCESSOR AGENCY during the pendency of
4 ~~such legal immigrant's~~ THE QUALIFIED ALIEN'S receipt of public assistance.
5 Nothing in this subsection (5) shall be construed to affect a ~~legal~~
6 ~~immigrant's~~ QUALIFIED ALIEN'S eligibility for public assistance under this
7 article based upon ~~such legal immigrant's~~ THE QUALIFIED ALIEN'S
8 responsibilities under an affidavit of support entered into before July 1,
9 1997.

10 **SECTION 3.** 26-2-111 (2) (b), Colorado Revised Statutes, is
11 amended to read:

12 **26-2-111. Eligibility for public assistance.** (2) **Old age**
13 **pension.** (b) ~~No person~~ AN APPLICANT OR RECIPIENT OF THE OLD AGE
14 PENSION WHO IS otherwise qualified shall NOT be denied the old age
15 pension by reason of the fact that relatives may be financially able to
16 contribute to his OR HER support and maintenance; ~~but~~ EXCEPT THAT
17 income and ~~property~~ RESOURCES of the spouse of an applicant or recipient
18 of the old age pension OR OF A SPONSOR OF AN APPLICANT OR RECIPIENT
19 OF THE OLD AGE PENSION WHO IS A QUALIFIED ALIEN shall be considered
20 in determining eligibility pursuant to rules ~~and regulations~~ of the state
21 department. ~~which rules and regulations shall be based upon and relate to~~
22 ~~the need of the applicant or recipient.~~

23 **SECTION 4.** 26-2-111 (2) (c), Colorado Revised Statutes, as
24 amended by section 1 of House Bill 10-____, is amended to read:

25 **26-2-111. Eligibility for public assistance.** (2) **Old age**
26 **pension.** (c) (I) Except as otherwise provided in subparagraphs (II) and
27 (III) of this paragraph (c), a qualified alien shall not be granted the old

1 age pension under the provisions of this subsection (2) unless it is shown
2 that:

3 ~~(A) The person, other than a relative, who sponsored the alien's~~
4 ~~entry into the United States and who satisfied sponsorship financial~~
5 ~~requirements at the time of initial sponsorship now has insufficient~~
6 ~~income, property, or other resources to meet the needs of the alien as~~
7 ~~determined pursuant to rules and regulations of the state department; and~~

8 (B) The qualified alien meets the requirements specified in section
9 26-2-111.8 (2) (a) relating to entry into the United States prior to August
10 22, 1996, or the requirements specified in section 26-2-111.8 (2) (b)
11 regarding the five-year bar on receipt of benefits; AND

12 (C) THE QUALIFIED ALIEN MEETS THE REQUIREMENTS SPECIFIED IN
13 SECTION 26-2-111.8 (2) (c) REGARDING THE DEEMING OF SPONSOR INCOME
14 AND RESOURCES.

15 (II) The requirements in subparagraph (I) of this paragraph (c) do
16 not apply to a qualified alien who meets the eligibility criteria for the old
17 age pension in paragraph (a) of this subsection (2) if the state department
18 determines that:

19 (A) The qualified alien has been abandoned by or is a victim of
20 mistreatment by his or her sponsor or is an abused spouse as determined
21 pursuant to rules of the state department; OR

22 (B) THE PERSON WHO SPONSORED THE QUALIFIED ALIEN'S ENTRY
23 INTO THE UNITED STATES AND WHO SATISFIED SPONSORSHIP FINANCIAL
24 REQUIREMENTS AT THE TIME OF INITIAL SPONSORSHIP NOW HAS
25 INSUFFICIENT INCOME AND RESOURCES TO MEET THE NEEDS OF THE
26 QUALIFIED ALIEN AS DETERMINED PURSUANT TO RULES OF THE STATE
27 DEPARTMENT.

1 (III) The requirements in subparagraph (I) of this paragraph (c) do
2 not apply to a qualified alien who meets the eligibility criteria for the old
3 age pension in paragraph (a) of this subsection (2) and who is also
4 eligible for federal financial benefits pursuant to Title XVI of the federal
5 "Social Security Act".

6 **SECTION 5.** 26-2-111.8, Colorado Revised Statutes, is amended
7 BY THE ADDITION OF A NEW SUBSECTION to read:

8 **26-2-111.8. Eligibility of noncitizens for public assistance.**

9 (3.5) FOR BENEFITS PROVIDED ON AND AFTER THE EFFECTIVE DATE OF
10 THIS SUBSECTION (3.5), THE STATE DEPARTMENT MAY PURSUE REPAYMENT
11 FROM THE QUALIFIED ALIEN'S SPONSOR FOR OLD AGE PENSION BENEFITS
12 PROVIDED TO THE QUALIFIED ALIEN DURING THE TIME THAT THE
13 SPONSORSHIP AFFIDAVIT OF SUPPORT IS IN EFFECT AS DETERMINED BY
14 UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, OR ITS
15 SUCCESSOR AGENCY.

16 **SECTION 6. Appropriation - adjustment in 2010 long bill.**

17 (1) In addition to any other appropriation, there is hereby appropriated,
18 to the department of health care policy and financing, for allocation to the
19 department of human services medicaid-funded programs, office of
20 information technology services - medicaid funding, for the Colorado
21 benefits management system, for the fiscal year beginning July 1, 2009,
22 the sum of eight thousand six hundred sixty dollars (\$8,660), or so much
23 thereof as may be necessary, for the implementation of this act. Of said
24 sum, eight thousand five hundred eighty-four dollars (\$8,584) shall be
25 from the general fund, forty-one dollars (\$41) shall be cash funds from
26 the old age pension fund created in article XXIV of the Colorado
27 Constitution, and thirty-five dollars (\$35) shall be cash funds from the

1 children's basic health plan trust created in section 25.5-8-105 (1),
2 Colorado Revised Statutes. In addition to said appropriation, the general
3 assembly anticipates that, for the fiscal year beginning July 1, 2009, the
4 department of health care policy and financing will receive the sum of
5 eight thousand six hundred forty-nine dollars (\$8,649) in federal funds for
6 the implementation of this act. Although the federal funds are not
7 appropriated in this act, they are noted for the purpose of indicating the
8 assumptions used relative to these funds in developing state appropriation
9 amounts.

10 (2) In addition to any other appropriation, there is hereby
11 appropriated, to the department of human services, for allocation to the
12 office of information technology services, for the Colorado benefits
13 management system, for the fiscal year beginning July 1, 2009, the sum
14 of thirty thousand seven hundred ninety-nine dollars (\$30,799), or so
15 much thereof as may be necessary, for the implementation of this act. Of
16 said sum, eleven thousand three hundred forty-seven dollars (\$11,347)
17 shall be from the general fund, two thousand one hundred forty-three
18 dollars (\$2,143) shall be cash funds from the old age pension fund created
19 in article XXIV of the Colorado Constitution, and seventeen thousand
20 three hundred nine dollars (\$17,309) shall be from reappropriated funds
21 transferred from the department of health care policy and financing. In
22 addition to said appropriation, the general assembly anticipates that, for
23 the fiscal year beginning July 1, 2009, the department of human services
24 will receive the sum of fifteen thousand two hundred one dollars
25 (\$15,201) in federal funds for the implementation of this act. Although
26 the federal funds are not appropriated in this act, they are noted for the
27 purpose of indicating the assumptions used relative to these funds in

1 developing state appropriation amounts.

2 (3) In addition to any other appropriation, there is hereby
3 appropriated, to the department of health care policy and financing, for
4 allocation to the department of human services medicaid-funded
5 programs, office of information technology services - medicaid funding,
6 for the Colorado benefits management system, for the fiscal year
7 beginning July 1, 2010, the sum of eight thousand six hundred fifteen
8 dollars (\$8,615), or so much thereof as may be necessary, for the
9 implementation of this act. Of said sum, eight thousand five hundred
10 thirty-nine dollars (\$8,539) shall be from the general fund, forty-one
11 dollars (\$41) shall be cash funds from the old age pension fund created
12 in article XXIV of the Colorado Constitution, and thirty-five dollars (\$35)
13 shall be cash funds from the children's basic health plan trust created in
14 section 25.5-8-105 (1), Colorado Revised Statutes. In addition to said
15 appropriation, the general assembly anticipates that, for the fiscal year
16 beginning July 1, 2010, the department of health care policy and
17 financing will receive the sum of eight thousand six hundred five dollars
18 (\$8,605) in federal funds for the implementation of this act. Although the
19 federal funds are not appropriated in this act, they are noted for the
20 purpose of indicating the assumptions used relative to these funds in
21 developing state appropriation amounts.

22 (4) In addition to any other appropriation, there is hereby
23 appropriated, to the department of human services, for allocation to the
24 office of information technology services, for the Colorado benefits
25 management system, for the fiscal year beginning July 1, 2010, the sum
26 of thirty thousand six hundred forty dollars (\$30,640), or so much thereof
27 as may be necessary, for the implementation of this act. Of said sum,

1 eleven thousand two hundred eighty-eight dollars (\$11,288) shall be from
2 the general fund, two thousand one hundred thirty-two dollars (\$2,132)
3 shall be cash funds from the old age pension fund created in article XXIV
4 of the Colorado Constitution, and seventeen thousand two hundred twenty
5 dollars (\$17,220) shall be from reappropriated funds transferred from the
6 department of health care policy and financing. In addition to said
7 appropriation, the general assembly anticipates that, for the fiscal year
8 beginning July 1, 2010, the department of human services will receive the
9 sum of fifteen thousand one hundred twenty-one dollars (\$15,121) in
10 federal funds for the implementation of this act. Although the federal
11 funds are not appropriated in this act, they are noted for the purpose of
12 indicating the assumptions used relative to these funds in developing state
13 appropriation amounts.

14 (5) In addition to any other appropriation, there is hereby
15 appropriated, to the Governor-Lieutenant Governor-office of state
16 planning and budgeting, for allocation to the office of information
17 technology, for the Colorado benefits management system, for the fiscal
18 year beginning July 1, 2010, the sum of forty-five thousand seven
19 hundred sixty-one dollars (\$45,761), or so much thereof as may be
20 necessary, for the implementation of this act. Said sum shall be from
21 reappropriated funds received from the department of human services out
22 of the appropriation made in subsection (4) of this section.

23 (6) For the implementation of this act, the cash funds
24 appropriation to the department of human services, adult assistance
25 programs, for the old age pension program cash assistance programs, for
26 the fiscal year beginning July 1, 2010, shall be decreased by fourteen
27 million one hundred eight thousand eight hundred seventeen dollars

1 (\$14,108,817).

2 **SECTION 7. Specified effective date.** (1) This section and
3 sections 6 and 8 of this act shall take effect upon passage.

4 (2) Sections 1 and 2 of this act shall take effect July 1, 2010.

5 (3) Sections 3 through 5 of this act shall take effect January 1,
6 2011, or upon the expiration of the provisions of the federal "American
7 Reinvestment and Recovery Act", Pub.L. 111-5, or any amendment
8 thereto, or other federal law that restricts reimbursement of an enhanced
9 federal medicaid assistance percentage to a state that reduces eligibility
10 for its medicaid program, whichever is later. The staff director of the
11 joint budget committee shall file a written notice with the revisor of
12 statutes that the requirement set forth in this subsection (3) has been met.

13 **SECTION 8. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.