

**Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO**

**ENGROSSED**

*This Version Includes All Amendments Adopted  
on Second Reading in the House of Introduction*

LLS NO. 10-1051.01 Debbie Haskins

**HOUSE BILL 10-1384**

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**HOUSE SPONSORSHIP**

**Lambert**, Ferrandino, Pommer

**SENATE SPONSORSHIP**

**White**, Keller, Tapia

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**House Committees**  
Appropriations

**Senate Committees**

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**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.**

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**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.*

HOUSE  
Am ended 2nd Reading  
March 31, 2010

*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.

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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~~ PARAGRAPHS (c) AND (d)  
6 of this subsection (2), public assistance in the form of the old age pension  
7 shall be granted to any person who meets the requirements of subsection  
8 (1) of this section 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 IT IS DETERMINED PURSUANT TO RULES OF THE STATE  
20 DEPARTMENT THAT:

21 (A) THE QUALIFIED ALIEN HAS BEEN ABANDONED BY OR IS A  
22 VICTIM OF MISTREATMENT BY HIS OR HER SPONSOR OR IS AN ABUSED  
23 SPOUSE AND WOULD INCUR A SIGNIFICANT FINANCIAL HARDSHIP; OR

24 (B) THE QUALIFIED ALIEN WHO DOES NOT HAVE A SPONSOR WOULD  
25 HAVE INSUFFICIENT INCOME TO SUPPORT HIMSELF OR HERSELF OR WOULD  
26 OTHERWISE INCUR A SIGNIFICANT FINANCIAL HARDSHIP.

27 (III) THE REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS

1 PARAGRAPH (c) DO NOT APPLY TO A QUALIFIED ALIEN WHO MEETS THE  
2 ELIGIBILITY CRITERIA FOR THE OLD AGE PENSION IN PARAGRAPH (a) OF  
3 THIS SUBSECTION (2) AND WHO IS ALSO ELIGIBLE FOR FEDERAL FINANCIAL  
4 BENEFITS PURSUANT TO TITLE XVI OF THE FEDERAL "SOCIAL SECURITY  
5 ACT".

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

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

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

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

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

25 (2) (a) **Entry requirements.** A qualified alien who entered the  
26 United States before August 22, 1996, AND WHO MEETS THE ELIGIBILITY  
27 CRITERIA SPECIFIED FOR A PARTICULAR PUBLIC ASSISTANCE PROGRAM

1 shall be eligible to receive ~~benefits~~ PUBLIC ASSISTANCE under a ~~state~~  
2 ~~program funded by temporary assistance for needy families block grant~~  
3 ~~funds under part A of Title IV of the federal "Social Security Act"~~ THE  
4 FOLLOWING PROGRAMS AS DESCRIBED IN THIS ARTICLE:

5 (I) THE COLORADO WORKS PROGRAM;

6 (II) THE OLD AGE PENSION;

7 (III) AID TO THE NEEDY DISABLED; OR

8 (IV) AID TO THE BLIND.

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

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

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

27 (4) A ~~legal immigrant~~ QUALIFIED ALIEN may receive benefits

1 under section 26-2-122.3 pursuant to rules promulgated by the ~~medical~~  
2 ~~services board~~ STATE DEPARTMENT.

3 (5) As a condition of eligibility for public assistance under this  
4 article, a ~~legal immigrant~~ QUALIFIED ALIEN shall agree to refrain from  
5 executing an affidavit of support for the purpose of sponsoring an alien  
6 on or after July 1, 1997, under rules promulgated by the immigration and  
7 naturalization service OR ITS SUCCESSOR AGENCY during the pendency of  
8 ~~such legal immigrant's~~ THE QUALIFIED ALIEN'S receipt of public assistance.  
9 Nothing in this subsection (5) shall be construed to affect a ~~legal~~  
10 ~~immigrant's~~ QUALIFIED ALIEN'S eligibility for public assistance under this  
11 article based upon ~~such legal immigrant's~~ THE QUALIFIED ALIEN'S  
12 responsibilities under an affidavit of support entered into before July 1,  
13 1997.

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

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

27 **SECTION 4.** 26-2-111 (2) (c), Colorado Revised Statutes, as

1 amended by section 1 of House Bill 10-1384, is amended to read:

2 **26-2-111. Eligibility for public assistance. (2) Old age**  
3 **pension.** (c) (I) Except as otherwise provided in subparagraphs (II) and  
4 (III) of this paragraph (c), a qualified alien shall not be granted the old  
5 age pension under the provisions of this subsection (2) unless it is shown  
6 that:

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

12 (B) The qualified alien meets the requirements specified in section  
13 26-2-111.8 (2) (a) relating to entry into the United States prior to August  
14 22, 1996, or the requirements specified in section 26-2-111.8 (2) (b)  
15 regarding the five-year bar on receipt of benefits; AND

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

19 (II) The requirements in subparagraph (I) of this paragraph (c) do  
20 not apply to a qualified alien who meets the eligibility criteria for the old  
21 age pension in paragraph (a) of this subsection (2) if it is determined  
22 pursuant to rules of the state department that:

23 (A) The qualified alien has been abandoned by or is a victim of  
24 mistreatment by his or her sponsor or is an abused spouse and would  
25 incur a significant financial hardship; or

26 (B) The qualified alien who does not have a sponsor would have  
27 insufficient income to support himself or herself or would otherwise incur



1 a significant financial hardship; OR

2 (C) THE PERSON WHO SPONSORED THE QUALIFIED ALIEN'S ENTRY  
3 INTO THE UNITED STATES AND WHO SATISFIED SPONSORSHIP FINANCIAL  
4 REQUIREMENTS AT THE TIME OF INITIAL SPONSORSHIP NOW HAS  
5 INSUFFICIENT INCOME AND RESOURCES TO MEET THE NEEDS OF THE  
6 QUALIFIED ALIEN.

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

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

14 **26-2-111.8. Eligibility of noncitizens for public assistance.**

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

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

23 (1) In addition to any other appropriation, there is hereby appropriated,  
24 to the department of health care policy and financing, for allocation to the  
25 department of human services medicaid-funded programs, office of  
26 information technology services - medicaid funding, for the Colorado  
27 benefits management system, for the fiscal year beginning July 1, 2009,

1 the sum of eight thousand six hundred sixty dollars (\$8,660), or so much  
2 thereof as may be necessary, for the implementation of this act. Of said  
3 sum, eight thousand five hundred eighty-four dollars (\$8,584) shall be  
4 from the general fund, forty-one dollars (\$41) shall be cash funds from  
5 the old age pension fund created in article XXIV of the Colorado  
6 Constitution, and thirty-five dollars (\$35) shall be cash funds from the  
7 children's basic health plan trust created in section 25.5-8-105 (1),  
8 Colorado Revised Statutes. In addition to said appropriation, the general  
9 assembly anticipates that, for the fiscal year beginning July 1, 2009, the  
10 department of health care policy and financing will receive the sum of  
11 eight thousand six hundred forty-nine dollars (\$8,649) in federal funds for  
12 the implementation of this act. Although the federal funds are not  
13 appropriated in this act, they are noted for the purpose of indicating the  
14 assumptions used relative to these funds in developing state appropriation  
15 amounts.

16 (2) In addition to any other appropriation, there is hereby  
17 appropriated, to the department of human services, for allocation to the  
18 office of information technology services, for the Colorado benefits  
19 management system, for the fiscal year beginning July 1, 2009, the sum  
20 of thirty thousand seven hundred ninety-nine dollars (\$30,799), or so  
21 much thereof as may be necessary, for the implementation of this act. Of  
22 said sum, eleven thousand three hundred forty-seven dollars (\$11,347)  
23 shall be from the general fund, two thousand one hundred forty-three  
24 dollars (\$2,143) shall be cash funds from the old age pension fund created  
25 in article XXIV of the Colorado Constitution, and seventeen thousand  
26 three hundred nine dollars (\$17,309) shall be from reappropriated funds  
27 transferred from the department of health care policy and financing. In

1 addition to said appropriation, the general assembly anticipates that, for  
2 the fiscal year beginning July 1, 2009, the department of human services  
3 will receive the sum of fifteen thousand two hundred one dollars  
4 (\$15,201) in federal funds for the implementation of this act. Although  
5 the federal funds are not appropriated in this act, they are noted for the  
6 purpose of indicating the assumptions used relative to these funds in  
7 developing state appropriation amounts.

8 (3) In addition to any other appropriation, there is hereby  
9 appropriated, to the department of health care policy and financing, for  
10 allocation to the department of human services medicaid-funded  
11 programs, office of information technology services - medicaid funding,  
12 for the Colorado benefits management system, for the fiscal year  
13 beginning July 1, 2010, the sum of eight thousand six hundred fifteen  
14 dollars (\$8,615), or so much thereof as may be necessary, for the  
15 implementation of this act. Of said sum, eight thousand five hundred  
16 thirty-nine dollars (\$8,539) shall be from the general fund, forty-one  
17 dollars (\$41) shall be cash funds from the old age pension fund created  
18 in article XXIV of the Colorado Constitution, and thirty-five dollars (\$35)  
19 shall be cash funds from the children's basic health plan trust created in  
20 section 25.5-8-105 (1), Colorado Revised Statutes. In addition to said  
21 appropriation, the general assembly anticipates that, for the fiscal year  
22 beginning July 1, 2010, the department of health care policy and  
23 financing will receive the sum of eight thousand six hundred five dollars  
24 (\$8,605) in federal funds for the implementation of this act. Although the  
25 federal funds are not appropriated in this act, they are noted for the  
26 purpose of indicating the assumptions used relative to these funds in  
27 developing state appropriation amounts.

1           (4) In addition to any other appropriation, there is hereby  
2 appropriated, to the department of human services, for allocation to the  
3 office of information technology services, for the Colorado benefits  
4 management system, for the fiscal year beginning July 1, 2010, the sum  
5 of thirty thousand six hundred forty dollars (\$30,640), or so much thereof  
6 as may be necessary, for the implementation of this act. Of said sum,  
7 eleven thousand two hundred eighty-eight dollars (\$11,288) shall be from  
8 the general fund, two thousand one hundred thirty-two dollars (\$2,132)  
9 shall be cash funds from the old age pension fund created in article XXIV  
10 of the Colorado Constitution, and seventeen thousand two hundred twenty  
11 dollars (\$17,220) shall be from reappropriated funds transferred from the  
12 department of health care policy and financing. In addition to said  
13 appropriation, the general assembly anticipates that, for the fiscal year  
14 beginning July 1, 2010, the department of human services will receive the  
15 sum of fifteen thousand one hundred twenty-one dollars (\$15,121) in  
16 federal funds for the implementation of this act. Although the federal  
17 funds are not appropriated in this act, they are noted for the purpose of  
18 indicating the assumptions used relative to these funds in developing state  
19 appropriation amounts.

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

1 of the appropriation made in subsection (4) of this section.

2 (6) For the implementation of this act, the cash funds  
3 appropriation to the department of human services, adult assistance  
4 programs, for the old age pension program cash assistance programs, for  
5 the fiscal year beginning July 1, 2010, shall be decreased by [REDACTED]  
6 thirteen million four hundred thirty-nine thousand nine hundred  
7 eighty-seven dollars (\$13,439,987).

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

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

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

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