

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

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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
Appropriations

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.*

HOUSE
3rd Reading Unamended
April 1, 2010

HOUSE
Amended 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.

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 upon the
12 earlier of:

13 (a) January 1, 2014; or

14 (b) The date upon which the revisor of statutes receives
15 notification from the executive director of the department of health care
16 policy and financing that the federal centers for medicare and medicaid
17 services, having taken into consideration the requirements for
18 maintenance of effort for medicaid eligibility contained in the federal
19 "American Reinvestment and Recovery Act", Pub. L. 111-5, or any
20 amendment thereto, and in the federal "Patient Protection and Affordable
21 Care Act", Pub. L. 111-48, or any amendment thereto, has authorized
22 Colorado to reduce eligibility for its medicaid program consistent with the
23 provisions of this act without federal penalty.

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