

**First Regular Session  
Seventieth General Assembly  
STATE OF COLORADO**

**REVISED**

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

LLS NO. 15-0359.01 Nicole Myers x4326

**SENATE BILL 15-097**

---

**SENATE SPONSORSHIP**

**Aguilar,**

**HOUSE SPONSORSHIP**

**Landgraf,**

---

**Senate Committees**

Finance  
Appropriations

**House Committees**

Finance

---

**A BILL FOR AN ACT**

101     **CONCERNING THE ELIGIBILITY OF A SUPPLEMENTAL NEEDS TRUST TO**  
102             **RECEIVE CERTAIN PUBLIC EMPLOYEES' RETIREMENT**  
103             **ASSOCIATION BENEFITS.**

---

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

Currently, retirees of the public employees' retirement association (PERA) seeking to provide for the well-being of their dependents who are disabled by naming such dependents as cobeneficiaries risk that the dependents will lose the right to needs-based government benefits as a result of such designation. Additionally, eligible survivors who are

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  
2nd Reading Unamended  
March 16, 2015

SENATE  
3rd Reading Unamended  
February 20, 2015

SENATE  
Amended 2nd Reading  
February 19, 2015

entitled to survivor benefits under the law currently risk losing the right to needs-based government benefits as a result of such entitlement.

The bill allows a PERA retiree to designate a supplemental needs trust as a cobeneficiary eligible to receive a continuing benefit upon the PERA retiree's death. The bill also states that a supplemental needs trust is an eligible survivor under PERA law and able to receive PERA survivor benefits as provided under the PERA law and rules.

---

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

2           **SECTION 1. Legislative declaration.** The general assembly  
3 hereby finds and declares that it is in the best interests of the people of the  
4 state of Colorado to ensure that disabled dependents of PERA members  
5 and retirees are not penalized by provisions of the law governing the  
6 designation of cobeneficiaries and the provision of survivor benefits.  
7 Currently, PERA retirees seeking to provide for the well-being of their  
8 dependents who are disabled by naming such dependents as  
9 cobeneficiaries risk that the dependents will lose the right to needs-based  
10 government benefits as a result of such designation. Additionally, eligible  
11 survivors who are entitled to survivor benefits under the law currently  
12 risk losing the right to needs-based government benefits as a result of  
13 such entitlement. Allowing the designation of a supplemental needs trust  
14 as a cobeneficiary and providing that a supplemental needs trust is an  
15 eligible survivor for the purpose of receiving survivor benefits  
16 corresponds with the state's interests in ensuring that persons with  
17 disabilities receive the care and assistance necessary and is consistent  
18 with the state's vested public policy interest in ensuring financial stability  
19 for surviving dependents of PERA members and retirees.

20           **SECTION 2.** In Colorado Revised Statutes, 24-51-101, **amend**  
21 (10); and **add** (46.5) as follows:

22           **24-51-101. Definitions.** As used in this article, unless the context



1 A SUPPLEMENTAL NEEDS TRUST DUE TO THE DEATH OF THE BENEFICIARY  
2 OF SUCH TRUST PRIOR TO THE DEATH OF THE RETIREE, AN OPTION 1  
3 BENEFIT BECOMES PAYABLE TO THE RETIREE.

4 (b) IF A SUPPLEMENTAL NEEDS TRUST IS DETERMINED TO BE  
5 INVALID OR IS TERMINATED DURING THE LIFE OF THE RETIREE, THE  
6 BENEFICIARY THAT WAS NAMED IN THE TRUST IS THE COBENEFICIARY.

7 (c) IF A SUPPLEMENTAL NEEDS TRUST IS NOT ESTABLISHED BEFORE  
8 OR WITHIN NINETY DAYS AFTER THE DEATH OF THE RETIREE, IS  
9 DETERMINED TO BE INVALID, OR IS TERMINATED ON OR AFTER THE DEATH  
10 OF THE RETIREE, THE BENEFICIARY THAT WAS NAMED IN THE TRUST IS THE  
11 COBENEFICIARY.

12 **SECTION 4.** In Colorado Revised Statutes, 24-51-802,            
13 **add** (5) as follows:

14          

15 (5) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, A  
16 RETIREE MAY CHANGE THE COBENEFICIARY THAT WAS NAMED BY SUCH  
17 RETIREE AND DESIGNATE A SUPPLEMENTAL NEEDS TRUST AS A  
18 COBENEFICIARY IN PLACE OF THE PREVIOUSLY NAMED COBENEFICIARY IF:

19 (a) THE BENEFICIARY OF THE SUPPLEMENTAL NEEDS TRUST IS THE  
20 SAME PERSON AS THE PREVIOUSLY NAMED COBENEFICIARY; AND

21 (b) THE RETIREE FILES AN APPLICATION AND ANY REQUIRED  
22 DOCUMENTS IN A FORM AS DESIGNATED BY THE ASSOCIATION.

23          

24 **SECTION 5.** In Colorado Revised Statutes, 24-51-911, **add** (8)  
25 as follows:

26 **24-51-911. Commencement of survivor benefits or single**  
27 **payment.** (8) IF AT THE TIME OF THE DEATH OF THE MEMBER THERE IS A

1 SUPPLEMENTAL NEEDS TRUST ESTABLISHED BEFORE OR WITHIN NINETY  
2 DAYS AFTER THE DEATH OF THE MEMBER FOR THE BENEFIT OF THE  
3 QUALIFIED CHILD ELIGIBLE FOR SURVIVOR BENEFITS, SURVIVOR BENEFITS  
4 PAYABLE PURSUANT TO THIS PART 9 TO THE BENEFICIARY OF THE  
5 SUPPLEMENTAL NEEDS TRUST ARE PAYABLE TO THE TRUST.

6 **SECTION 6.** In Colorado Revised Statutes, 24-51-912, **add** (6)  
7 as follows:

8 **24-51-912. Termination of survivor benefits.** (6) IF THE  
9 ASSOCIATION IS PAYING A SUPPLEMENTAL NEEDS TRUST PURSUANT TO  
10 SECTION 24-51-911 (8), SUCH PAYMENT TERMINATES AND THE PROVISIONS  
11 OF THIS SECTION AND SECTION 24-51-913 APPLY WHEN THE BENEFICIARY  
12 OF SUCH SUPPLEMENTAL NEEDS TRUST IS NO LONGER ELIGIBLE TO RECEIVE  
13 SURVIVOR BENEFITS. IF A SUPPLEMENTAL NEEDS TRUST IS DETERMINED TO  
14 BE INVALID OR TERMINATES AFTER THE ASSOCIATION COMMENCES  
15 PAYMENT TO THE SUPPLEMENTAL NEEDS TRUST, THE SURVIVOR BENEFIT,  
16 FROM THEN ON, IS PAID TO THE BENEFICIARY OF THE SUPPLEMENTAL  
17 NEEDS TRUST SO LONG AS THAT BENEFICIARY IS ELIGIBLE FOR SURVIVOR  
18 BENEFITS.

19 **SECTION 7.** In Colorado Revised Statutes, 24-51-1204, **add** (2)  
20 as follows:

21 **24-51-1204. Health care program - eligibility.** (2) IF A  
22 SUPPLEMENTAL NEEDS TRUST IS RECEIVING BENEFIT PAYMENTS PURSUANT  
23 TO THIS ARTICLE, THE SUPPLEMENTAL NEEDS TRUST IS NOT ELIGIBLE TO  
24 ENROLL IN THE HEALTH CARE PROGRAM; HOWEVER, THE BENEFICIARY OF  
25 SUCH TRUST IS ELIGIBLE TO ENROLL IN THE HEALTH CARE PROGRAM IN THE  
26 SAME MANNER THAT THE BENEFICIARY WOULD BE ALLOWED TO ENROLL  
27 IF THE BENEFICIARY WAS THE DIRECT BENEFIT RECIPIENT.

1           **SECTION 8.** In Colorado Revised Statutes, 24-51-1206, **add** (7)  
2 as follows:

3           **24-51-1206. Premium subsidy.** (7) IF A SUPPLEMENTAL NEEDS  
4 TRUST IS RECEIVING BENEFIT PAYMENTS PURSUANT TO THIS ARTICLE, THE  
5 SUPPLEMENTAL NEEDS TRUST IS NOT ELIGIBLE FOR A PREMIUM SUBSIDY;  
6 HOWEVER, THE BENEFICIARY OF SUCH TRUST IS ELIGIBLE FOR A PREMIUM  
7 SUBSIDY IN THE SAME MANNER THAT THE BENEFICIARY WOULD RECEIVE  
8 A PREMIUM SUBSIDY IF THE BENEFICIARY WAS THE DIRECT BENEFIT  
9 RECIPIENT. IF THE ELIGIBILITY OF THE PREMIUM SUBSIDY CAUSES THE  
10 BENEFICIARY OF THE SUPPLEMENTAL NEEDS TRUST TO BE DISQUALIFIED  
11 FROM RECEIVING PUBLIC BENEFITS, THE BENEFICIARY IS NOT ELIGIBLE FOR  
12 SUCH PREMIUM SUBSIDY SO LONG AS SUCH CONDITION EXISTS.

13           **SECTION 9.** In Colorado Revised Statutes, 24-51-1702, **amend**  
14 (19) (c); and **add** (19) (f) as follows:

15           **24-51-1702. Definitions.** As used in this part 17, unless the  
16 context otherwise requires:

17           (19) "Membership" means the relationship a regular or casual  
18 employee has in the DPS plan and shall consist of the following:

19           (c) "Beneficiary" means a person OR SUPPLEMENTAL NEEDS TRUST  
20 who has received, receives, or is designated to receive benefits accruing  
21 as a result of an employee's membership.

22           (f) "SUPPLEMENTAL NEEDS TRUST" MEANS A VALID THIRD-PARTY  
23 SPECIAL NEEDS TRUST ESTABLISHED FOR A MEMBER'S OR RETIREE'S CHILD  
24 AS THE BENEFICIARY OF THE TRUST THAT COMPLIES WITH THE "COLORADO  
25 MEDICAL ASSISTANCE ACT", ARTICLES 4 TO 6 OF TITLE 25.5, C.R.S., AND  
26 THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED. THE DEPARTMENT  
27 OF HEALTH CARE POLICY AND FINANCING SHALL REVIEW ANY TRUST

1 ESTABLISHED DURING DETERMINATION OR REDETERMINATION OF AN  
2 INDIVIDUAL'S ELIGIBILITY FOR MEDICAL ASSISTANCE AND SPECIFICALLY AS  
3 TO THE EFFECT OF ANY TRUST ON SUCH ELIGIBILITY FOR MEDICAL  
4 ASSISTANCE. THE TRUST MUST BE FOR THE BENEFIT OF A SINGLE  
5 BENEFICIARY AND MUST BE COTERMINOUS WITH THE LIFETIME OF SUCH  
6 BENEFICIARY.

7 **SECTION 10.** In Colorado Revised Statutes, **amend 24-51-1719**  
8 as follows:

9 **24-51-1719. Option C.** (1) Any contributing member or affiliate  
10 member choosing or having chosen option C through December 31, 2009,  
11 will be governed by the DPS plan document. As of January 1, 2010,  
12 option C will no longer be a permissible payment choice.

13 (2) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, AN  
14 ANNUITANT MAY CHANGE THE CO-ANNUITANT THAT WAS NAMED BY SUCH  
15 ANNUITANT AND DESIGNATE A SUPPLEMENTAL NEEDS TRUST AS A  
16 CO-ANNUITANT IN PLACE OF THE PREVIOUSLY NAMED CO-ANNUITANT IF:

17 (a) THE BENEFICIARY OF THE SUPPLEMENTAL NEEDS TRUST IS THE  
18 SAME PERSON AS THE PREVIOUSLY NAMED CO-ANNUITANT; AND

19 (b) THE RETIREE FILES AN APPLICATION AND ANY REQUIRED  
20 DOCUMENTS IN A FORM AS DESIGNATED BY THE ASSOCIATION.

21 (3) IF A SUPPLEMENTAL NEEDS TRUST IS NOT ESTABLISHED BEFORE  
22 OR WITHIN NINETY DAYS AFTER THE DEATH OF THE ANNUITANT, IS  
23 DETERMINED TO BE INVALID, OR IS TERMINATED ON OR AFTER THE DEATH  
24 OF THE ANNUITANT, THE BENEFICIARY THAT WAS NAMED IN THE TRUST IS  
25 THE CO-ANNUITANT.

26 **SECTION 11.** In Colorado Revised Statutes, **amend 24-51-1721**  
27 as follows:

1           **24-51-1721. Option E.** (1) Any contributing member or affiliate  
2 member choosing or having chosen option E through December 31, 2009,  
3 will be governed by the DPS plan document. As of January 1, 2010,  
4 option E will no longer be a permissible payment choice.

5           (2) NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, AN  
6 ANNUITANT MAY CHANGE THE CO-ANNUITANT THAT WAS NAMED BY SUCH  
7 ANNUITANT AND DESIGNATE A SUPPLEMENTAL NEEDS TRUST AS A  
8 CO-ANNUITANT IN PLACE OF THE PREVIOUSLY NAMED CO-ANNUITANT IF:

9           (a) THE BENEFICIARY OF THE SUPPLEMENTAL NEEDS TRUST IS THE  
10 SAME PERSON AS THE PREVIOUSLY NAMED CO-ANNUITANT; AND

11           (b) THE RETIREE FILES AN APPLICATION AND ANY REQUIRED  
12 DOCUMENTS IN A FORM AS DESIGNATED BY THE ASSOCIATION.

13           (3) IF A SUPPLEMENTAL NEEDS TRUST IS NOT ESTABLISHED BEFORE  
14 OR WITHIN NINETY DAYS AFTER THE DEATH OF THE ANNUITANT, IS  
15 DETERMINED TO BE INVALID, OR IS TERMINATED ON OR AFTER THE DEATH  
16 OF THE ANNUITANT, THE BENEFICIARY THAT WAS NAMED IN THE TRUST IS  
17 THE CO-ANNUITANT.

18           **SECTION 12.** In Colorado Revised Statutes, 24-51-1723, **add** (3)  
19 and (4) as follows:

20           **24-51-1723. Option P2.** (3) NOTWITHSTANDING ANY PROVISION  
21 TO THE CONTRARY, AN ANNUITANT MAY CHANGE THE CO-ANNUITANT  
22 THAT WAS NAMED BY SUCH ANNUITANT AND DESIGNATE A SUPPLEMENTAL  
23 NEEDS TRUST AS A CO-ANNUITANT IN PLACE OF THE PREVIOUSLY NAMED  
24 CO-ANNUITANT IF:

25           (a) THE BENEFICIARY OF THE SUPPLEMENTAL NEEDS TRUST IS THE  
26 SAME PERSON AS THE PREVIOUSLY NAMED CO-ANNUITANT; AND

27           (b) THE RETIREE FILES AN APPLICATION AND ANY REQUIRED

1 DOCUMENTS IN A FORM AS DESIGNATED BY THE ASSOCIATION.

2 (4) IF A SUPPLEMENTAL NEEDS TRUST IS NOT ESTABLISHED BEFORE  
3 OR WITHIN NINETY DAYS AFTER THE DEATH OF THE ANNUITANT, IS  
4 DETERMINED TO BE INVALID, OR IS TERMINATED ON OR AFTER THE DEATH  
5 OF THE ANNUITANT, THE BENEFICIARY THAT WAS NAMED IN THE TRUST IS  
6 THE CO-ANNUITANT.

7 **SECTION 13.** In Colorado Revised Statutes, 24-51-1724, **add** (5)  
8 and (6) as follows:

9 **24-51-1724. Option P3.** (5) NOTWITHSTANDING ANY PROVISION  
10 TO THE CONTRARY, AN ANNUITANT MAY CHANGE THE CO-ANNUITANT  
11 THAT WAS NAMED BY SUCH ANNUITANT AND DESIGNATE A SUPPLEMENTAL  
12 NEEDS TRUST AS A CO-ANNUITANT IN PLACE OF THE PREVIOUSLY NAMED  
13 CO-ANNUITANT IF:

14 (a) THE BENEFICIARY OF THE SUPPLEMENTAL NEEDS TRUST IS THE  
15 SAME PERSON AS THE PREVIOUSLY NAMED CO-ANNUITANT; AND

16 (b) THE RETIREE FILES AN APPLICATION AND ANY REQUIRED  
17 DOCUMENTS IN A FORM AS DESIGNATED BY THE ASSOCIATION.

18 (6) IF A SUPPLEMENTAL NEEDS TRUST IS NOT ESTABLISHED BEFORE  
19 OR WITHIN NINETY DAYS AFTER THE DEATH OF THE ANNUITANT, IS  
20 DETERMINED TO BE INVALID, OR IS TERMINATED ON OR AFTER THE DEATH  
21 OF THE ANNUITANT, THE BENEFICIARY THAT WAS NAMED IN THE TRUST IS  
22 THE CO-ANNUITANT.

23 **SECTION 14.** In Colorado Revised Statutes, 24-51-1737, **add** (3)  
24 as follows:

25 **24-51-1737. Eligible beneficiaries.** (3) IF AT THE TIME OF THE  
26 DEATH OF THE MEMBER THERE IS A SUPPLEMENTAL NEEDS TRUST  
27 ESTABLISHED BEFORE OR WITHIN NINETY DAYS AFTER THE DEATH OF THE

1 MEMBER FOR THE BENEFIT OF THE CHILD ELIGIBLE FOR SURVIVOR  
2 BENEFITS, SURVIVOR BENEFITS PAYABLE PURSUANT TO SECTIONS  
3 24-51-1736 TO 24-51-1746 TO THE BENEFICIARY OF THE SUPPLEMENTAL  
4 NEEDS TRUST ARE PAYABLE TO THE TRUST SO LONG AS THAT BENEFICIARY  
5 IS ELIGIBLE FOR SURVIVOR BENEFITS. IF A SUPPLEMENTAL NEEDS TRUST IS  
6 DETERMINED TO BE INVALID OR TERMINATES AFTER THE ASSOCIATION  
7 COMMENCES PAYMENT TO THE SUPPLEMENTAL NEEDS TRUST, THE  
8 SURVIVOR BENEFIT, FROM THEN ON, IS PAID TO THE BENEFICIARY OF THE  
9 SUPPLEMENTAL NEEDS TRUST SO LONG AS THAT BENEFICIARY IS ELIGIBLE  
10 FOR SURVIVOR BENEFITS.

11 **SECTION 15. No appropriation.** The general assembly has  
12 determined that this act can be implemented within existing  
13 appropriations, and therefore no separate appropriation of state moneys  
14 is necessary to carry out the purposes of this act.

15 **SECTION 16. Applicability.** This act applies to members and  
16 retirees of the public employees' retirement association who are living on  
17 or after the effective date of this act.

18 **SECTION 17. Safety clause.** The general assembly hereby finds,  
19 determines, and declares that this act is necessary for the immediate  
20 preservation of the public peace, health, and safety.