

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

PREAMENDED

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

LLS NO. 16-0446.01 Bob Lackner x4350

SENATE BILL 16-038

SENATE SPONSORSHIP

Aguilar, Newell, Guzman, Heath, Hodge, Kerr, Merrifield, Steadman, Todd, Kefalas,
Ulibarri

HOUSE SPONSORSHIP

Young and Sias, Esgar, Ginal, Landgraf, Lontine, McCann, Tyler

Senate Committees

State, Veterans, & Military Affairs
Finance

House Committees

Health, Insurance, & Environment
Appropriations

A BILL FOR AN ACT

101 **CONCERNING MEASURES TO PROMOTE THE TRANSPARENCY OF**
102 **COMMUNITY-CENTERED BOARDS, AND, IN CONNECTION**
103 **THEREWITH, MAKING CERTAIN COMMUNITY-CENTERED BOARDS**
104 **SUBJECT TO PERFORMANCE AUDITS UNDERTAKEN BY THE STATE**
105 **AUDITOR, MAKING ALL COMMUNITY-CENTERED BOARDS**
106 **SUBJECT TO THE "COLORADO LOCAL GOVERNMENT AUDIT**
107 **LAW", EXPANDING PUBLIC DISCLOSURE OF THE**
108 **ADMINISTRATION AND OPERATIONS OF THE**
109 **COMMUNITY-CENTERED BOARDS, AND MAKING AN**
110 **APPROPRIATION.**

Bill Summary

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.

SENATE
3rd Reading Unamended
April 20, 2016

SENATE
Amended 2nd Reading
April 19, 2016

(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>.)

Section 2 of the bill makes all writings made, maintained, or kept by a community-centered board (CCB) that receives more than 75% of its funding on an annual basis from the federal, the state, or a local government or from any combination of such governmental entities subject to public inspection as a "public record" under "Colorado Open Records Act".

Section 3 of the bill requires the state auditor, at least once every 5 years or more frequently at the state auditor's discretion, to conduct or cause to be conducted a performance audit of each CCB that receives more than 75% of its funding on an annual basis from federal, state, or local government, or from any combination of such governmental entities, to determine whether such CCB is effectively and efficiently fulfilling its statutory obligations. A CCB becomes subject to the audit requirement when the CCB initially satisfies the 75% funding requirement for any one year regardless of whether or not the funding level decreases below 75% in any subsequent year. Section 3 of the bill further requires the state auditor to submit a written report and recommendations on each audit conducted and to present the report and recommendations to the legislative audit committee. The cost of any performance audit undertaken is imposed on the CCB.

Section 2 of the bill also makes each CCB subject to the requirements of the "Colorado Local Government Audit Law".

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) By means of the safeguards specified in part 2 of article 10 of
5 title 25.5, Colorado Revised Statutes, and other provisions of law, the
6 state of Colorado has assumed the duty of providing persons with
7 intellectual and developmental disabilities, among the most vulnerable
8 populations in the state, with improved and lengthened life expectancy.

9 (b) The state of Colorado acknowledges that it takes significant

1 public resources to meet the needs of persons with intellectual and
2 developmental disabilities so as to live full, meaningful lives participating
3 actively in the community.

4 (c) The state demands that the community-centered boards
5 empowered under part 2 of article 10 of title 25.5, Colorado Revised
6 Statutes, be prudent and efficient stewards of the public moneys entrusted
7 to them by requiring transparency with respect to the manner in which
8 these moneys are spent.

9 (d) Such transparency will give the public confidence that funding
10 the community-centered boards is a wise and prudent use of the state's
11 resources, thereby justifying the transfer of additional public resources to
12 these organizations as needed to support persons with intellectual and
13 developmental disabilities.

14 (2) By enacting Senate Bill 16-038, enacted in 2016, the general
15 assembly intends that the community-centered boards largely supported
16 by public resources be subject to transparency in connection with their
17 use of public resources to the greatest extent possible. The ability of the
18 state auditor to undertake performance audits of certain
19 community-centered boards, and subjecting all community-centered
20 boards to the "Colorado Local Government Audit Law", will have the
21 effect of promoting public transparency in connection with the use by
22 these entities of significant public resources. The general assembly further
23 intends that Senate Bill 16-038, enacted in 2016, be construed as liberally
24 as possible to promote the policy objectives specified in this section.

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26 **SECTION 2.** In Colorado Revised Statutes, 25.5-10-209, **add** (4),
27 (5), (6), (7), and (8) as follows:

1 **25.5-10-209. Community-centered boards - designation -**
2 **purchase of services and supports by community-centered boards -**
3 **performance audits - Colorado local government audit law - public**
4 **disclosure of board administration and operations.** (4) THE STATE
5 AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE
6 AUDIT THAT INCLUDES EACH COMMUNITY-CENTERED BOARD THAT
7 RECEIVES MORE THAN SEVENTY-FIVE PERCENT OF ITS FUNDING ON AN
8 ANNUAL BASIS FROM THE FEDERAL, THE STATE, OR A LOCAL GOVERNMENT
9 OR FROM ANY COMBINATION OF SUCH GOVERNMENTAL ENTITIES TO
10 DETERMINE WHETHER SUCH BOARD IS EFFECTIVELY AND EFFICIENTLY
11 FULFILLING ITS STATUTORY OBLIGATIONS. A COMMUNITY-CENTERED
12 BOARD BECOMES SUBJECT TO THE AUDIT REQUIREMENT UNDER THIS
13 SUBSECTION (4) AT SUCH TIME AS THE BOARD INITIALLY SATISFIES THE
14 SEVENTY-FIVE PERCENT FUNDING REQUIREMENT FOR ANY ONE YEAR
15 REGARDLESS OF WHETHER OR NOT THE FUNDING LEVEL DECREASES BELOW
16 SEVENTY-FIVE PERCENT IN ANY SUBSEQUENT YEAR. ANY PERFORMANCE
17 AUDIT THAT IS REQUIRED TO BE CONDUCTED UNDER THIS SUBSECTION (4)
18 MUST BE COMPLETED IN THE FIRST FIVE YEAR PERIOD FOLLOWING THE
19 EFFECTIVE DATE OF THIS SECTION AS AMENDED. THEREAFTER, A
20 PERFORMANCE AUDIT MAY BE CONDUCTED OF SUCH
21 COMMUNITY-CENTERED BOARDS DESCRIBED IN THIS SUBSECTION (4) IF
22 REQUESTED BY THE STATE AUDITOR IN THE EXERCISE OF HIS OR HER
23 DISCRETION. THE STATE AUDITOR SHALL SUBMIT A WRITTEN REPORT AND
24 RECOMMENDATIONS ON EACH AUDIT CONDUCTED UNDER THIS SUBSECTION
25 (4) AND SHALL PRESENT THE REPORT AND RECOMMENDATIONS TO THE
26 LEGISLATIVE AUDIT COMMITTEE CREATED IN SECTION 2-3-101 (1), C.R.S.
27 THE STATE AUDITOR SHALL PAY THE COSTS OF ANY PERFORMANCE AUDIT

1 CONDUCTED PURSUANT TO THIS SECTION.

2 (5) EACH COMMUNITY-CENTERED BOARD IS SUBJECT TO THE
3 REQUIREMENTS OF THE "COLORADO LOCAL GOVERNMENT AUDIT LAW",
4 PART 6 OF ARTICLE 1 OF TITLE 29, C.R.S.

5 (6) IN CONNECTION WITH THE BOARD OF DIRECTORS OF EACH
6 COMMUNITY-CENTERED BOARD, IN ADDITION TO ANY OTHER
7 REQUIREMENTS APPLICABLE TO THE OPERATION OF THE BOARD OF
8 DIRECTORS PURSUANT TO THIS SECTION OR AS REQUIRED ELSEWHERE BY
9 LAW:

10 (a) THE COMMUNITY-CENTERED BOARD SHALL POST THE DATE,
11 TIME, AND LOCATION OF EACH REGULARLY SCHEDULED MEETING OF ITS
12 BOARD OF DIRECTORS ON THE WEBSITE OF THE COMMUNITY-CENTERED
13 BOARD NOT LESS THAN FOURTEEN BUSINESS DAYS PRIOR TO THE DATE OF
14 THE MEETING. THE COMMUNITY-CENTERED BOARD SHALL POST ON THE
15 WEBSITE OF THE COMMUNITY-CENTERED BOARD THE DATE, TIME, AND
16 LOCATION OF ANY SPECIAL OR EMERGENCY MEETING OF THE BOARD OF
17 DIRECTORS NOT LESS THAN TWENTY-FOUR HOURS BEFORE THE MEETING.

18 (b) EACH COMMUNITY-CENTERED BOARD SHALL POST THE AGENDA
19 FOR EACH MEETING OF ITS BOARD OF DIRECTORS ON THE WEBSITE OF THE
20 COMMUNITY-CENTERED BOARD NOT LESS THAN SEVEN BUSINESS DAYS
21 PRIOR TO THE DATE OF THE MEETING. THE COMMUNITY-CENTERED BOARD
22 SHALL POST ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD THE
23 AGENDA ANY SPECIAL OR EMERGENCY MEETING OF THE BOARD OF
24 DIRECTORS NOT LESS THAN TWENTY-FOUR HOURS BEFORE THE MEETING.
25 EACH MEETING OF THE BOARD MUST ALLOW FOR PUBLIC COMMENT AND
26 THE AGENDA MUST REFLECT THIS REQUIREMENT. PUBLIC COMMENT MUST
27 BE REASONABLY PERMITTED DURING THE BOARD MEETING TO

1 ACCOMMODATE COMMUNITY NEEDS. ANY DOCUMENTS RELATED TO
2 FUNCTIONS OF THE COMMUNITY-CENTERED BOARD TO BE DISTRIBUTED AT
3 A MEETING OF THE BOARD OF DIRECTORS THAT ARE AVAILABLE FOR
4 PUBLIC DISSEMINATION AT THE TIME THE AGENDA IS POSTED MUST ALSO
5 BE POSTED ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD AT THE
6 TIME THE AGENDA IS POSTED AND WRITTEN COPIES OF SUCH DOCUMENTS
7 MUST BE MADE AVAILABLE FOR PUBLIC DISSEMINATION AT THE BOARD
8 MEETING; EXCEPT THAT, THE POSTING REQUIREMENT SPECIFIED IN THIS
9 PARAGRAPH (b) DOES NOT APPLY TO ANY DOCUMENT, OR ANY PORTION OF
10 SUCH DOCUMENT, THE DISCLOSURE OF WHICH REQUIRES THE APPROVAL OF
11 THE BOARD OF DIRECTORS AND WHICH APPROVAL HAS NOT BEEN
12 OBTAINED AS OF THE TIME THE AGENDA IS POSTED OR ANY OTHER
13 DOCUMENT, OR ANY PORTION OF SUCH DOCUMENT, CONTAINING ANY
14 INFORMATION THAT IS LEGALLY PROHIBITED FROM BEING DISCLOSED TO
15 THE PUBLIC PURSUANT TO THE PRIVACY REQUIREMENTS SPECIFIED IN THE
16 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, ANY
17 DOCUMENT THAT HAS BEEN OR WILL BE DISCUSSED BY THE BOARD OF
18 DIRECTORS MEETING IN EXECUTIVE SESSION, OR ANY OTHER DOCUMENT
19 THE DISCLOSURE OF WHICH IS OTHERWISE PROHIBITED BY LAW.

20 (c) EACH COMMUNITY-CENTERED BOARD SHALL PROVIDE A DIRECT
21 EMAIL ADDRESS TO EACH MEMBER OF ITS BOARD OF DIRECTORS ON THE
22 WEBSITE OF THE COMMUNITY-CENTERED BOARD. THE EMAIL ADDRESS
23 SELECTED MUST SPECIFY THE NAME OF THE INDIVIDUAL BOARD MEMBER
24 AND MAKE REFERENCE TO THE PARTICULAR COMMUNITY-CENTERED
25 BOARD FOR WHICH HE OR SHE SERVES AS A MEMBER OF THE BOARD OF
26 DIRECTORS. AN EMAIL THAT IS SENT TO A MEMBER OF THE BOARD OF
27 DIRECTORS OF A COMMUNITY-CENTERED BOARD SHALL NOT BE FILTERED

1 BY THE COMMUNITY-CENTERED BOARD THROUGH AN EMPLOYEE OF THE
2 COMMUNITY-CENTERED BEFORE IT IS SENT TO THE MEMBER OF THE BOARD
3 OF DIRECTORS.

4 (d) THE BOARD OF DIRECTORS OF EACH COMMUNITY-CENTERED
5 BOARD SHALL PRESENT THE FINANCIAL STATEMENTS OF THE CORPORATION
6 FOR THE APPROVAL OF THE BOARD AT EACH REGULARLY SCHEDULED
7 MEETING OF THE BOARD OF DIRECTORS. THE FINANCIAL STATEMENTS
8 MUST REFLECT ACCURATE AND CURRENT FINANCIAL INFORMATION AND BE
9 PREPARED USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. WHERE
10 EXIGENT CIRCUMSTANCES ARE PRESENT THAT MATERIALLY AFFECT THE
11 PREPARATION OF THE FINANCIAL STATEMENTS ON A MONTHLY BASIS, SUCH
12 STATEMENTS MAY BE PRESENTED FOR THE APPROVAL OF THE BOARD OF
13 DIRECTORS AT THE NEXT REGULARLY SCHEDULED MEETING OF THE BOARD
14 BUT NOT LESS THAN AT LEAST ONCE EACH QUARTER OF THE CALENDAR
15 YEAR.

16 (e) EACH COMMUNITY-CENTERED BOARD SHALL REQUIRE THE
17 PERSON OR ENTITY THAT PERFORMS FINANCIAL AUDITS OF THE
18 COMMUNITY-CENTERED BOARD TO PRESENT AND DISCUSS THE RESULTS OF
19 THE AUDIT TO THE BOARD OF DIRECTORS NOT LESS THAN ONCE EACH YEAR
20 AT A REGULARLY SCHEDULED MEETING OF THE BOARD OF DIRECTORS.

21 (f) EACH COMMUNITY-CENTERED BOARD SHALL PROVIDE TO THE
22 INCOMING MEMBERS OF ITS BOARD OF DIRECTORS TRAINING IN SUCH
23 TOPICS AS THE DUTIES OF A BOARD MEMBER, THE FINANCIAL AND
24 FIDUCIARY RESPONSIBILITIES ASSUMED BY BOARD MEMBERS, THE
25 INTELLECTUAL AND DEVELOPMENTAL DISABILITY SYSTEM IN THE STATE,
26 THE OVERALL BUSINESS FUNCTIONS OF THE COMMUNITY-CENTERED
27 BOARD, AND ANY OTHER MATTERS THAT WILL, IN THE DETERMINATION OF

1 THE COMMUNITY-CENTERED BOARD, ALLOW THE BOARD MEMBER TO
2 BETTER UNDERSTAND AND FULFILL HIS OR HER OBLIGATIONS TO THE
3 BOARD OF DIRECTORS AND THE COMMUNITY-CENTERED BOARD AND THE
4 ROLE PLAYED BY COMMUNITY-CENTERED BOARDS IN THE STATE IN
5 CONNECTION WITH THE DELIVERY OF SERVICES FOR PERSONS WITH
6 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

7 (g) EACH COMMUNITY-CENTERED BOARD SHALL POST ON THE
8 WEBSITE OF THE COMMUNITY-CENTERED BOARD THE MINUTES OF EACH
9 MEETING OF ITS BOARD OF DIRECTORS AS SUCH MINUTES ARE APPROVED
10 BY THE BOARD OF DIRECTORS. EACH COMMUNITY-CENTERED BOARD
11 SHALL ALSO POST ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD
12 ANY ADDITIONAL DOCUMENTS THAT WERE DISTRIBUTED TO THE BOARD AT
13 SUCH MEETING THAT WERE NOT, AS OF THAT DATE, ALREADY POSTED ON
14 THE WEBSITE OF THE COMMUNITY-CENTERED BOARD UNLESS THE PUBLIC
15 DISTRIBUTION OF SUCH DOCUMENTS, OR ANY PORTION OF SUCH
16 DOCUMENTS, IS OTHERWISE PROHIBITED PURSUANT TO THE PRIVACY
17 REQUIREMENTS SPECIFIED IN THE HEALTH INSURANCE PORTABILITY AND
18 ACCOUNTABILITY ACT OR AS OTHERWISE PROHIBITED BY LAW. MINUTES
19 OF SPECIAL MEETINGS OF THE BOARD OF DIRECTORS MUST BE POSTED
20 AFTER APPROVAL BY THE BOARD OF THE SAME AT THE BOARD'S NEXT
21 REGULAR MEETING.

22 (7) WITH RESPECT TO FINANCIAL INFORMATION CONCERNING THE
23 COMMUNITY-CENTERED BOARD, EACH COMMUNITY-CENTERED BOARD
24 SHALL:

25 (a) POST THE FOLLOWING ON THE WEBSITE OF THE
26 COMMUNITY-CENTERED BOARD IN A PLACE ON THE WEBSITE THAT IS EASY
27 FOR MEMBERS OF THE PUBLIC TO ACCESS:

1 (I) EACH COMPLETED FINANCIAL AUDIT UNDERTAKEN OF THE
2 COMMUNITY-CENTERED BOARD NOT LATER THAN THIRTY DAYS
3 FOLLOWING ACCEPTANCE BY THE CORPORATION'S BOARD OF DIRECTORS
4 OF THE AUDIT; AND

5 (II) THE MOST CURRENT FORM 990 THE COMMUNITY-CENTERED
6 BOARD HAS FILED WITH THE FEDERAL INTERNAL REVENUE SERVICE NOT
7 LATER THAN THIRTY DAYS FOLLOWING FILING OF THE FORM WITH THE
8 INTERNAL REVENUE SERVICE.

9 (b) MAKE THE FOLLOWING INFORMATION AVAILABLE UPON
10 REASONABLE REQUEST NOT LATER THAN FIVE BUSINESS DAYS AFTER THE
11 REQUEST IS MADE:

12 (I) THE ANNUAL BUDGET OF THE COMMUNITY-CENTERED BOARD
13 FOR EACH CALENDAR OR FISCAL YEAR, AS APPLICABLE, NOT LATER THAN
14 THIRTY DAYS AFTER FINAL APPROVAL OF THE BUDGET BY THE BOARD OF
15 DIRECTORS OF THE COMMUNITY-CENTERED BOARD;

16 (II) AN ANNUAL SUMMARY OF ALL REVENUES AND EXPENDITURES
17 OF THE COMMUNITY-CENTERED BOARD AS HAVE BEEN APPROPRIATED BY
18 THE STATE CONCERNING CAPACITY BUILDING, FAMILY SUPPORT SERVICES,
19 STATE GENERAL FUND SUPPORTED LIVING SERVICES, AND STATE GENERAL
20 FUND EARLY INTERVENTION THAT IS CALCULATED BY SEPTEMBER 30 OF
21 EACH YEAR FOR THE PRIOR YEAR, AS APPLICABLE; AND

22 (III) A DESCRIPTION OF THE POLICIES AND PROCEDURES IT
23 FOLLOWS TO TRACK, MANAGE, AND REPORT ITS FINANCIAL RESOURCES
24 AND TRANSACTIONS, WHICH POLICIES AND PROCEDURES ARE ALSO KNOWN
25 AND MAY BE REFERRED TO AS ITS "FINANCIAL CONTROLS".

26 (8) ANY CONTRACT THAT EACH COMMUNITY-CENTERED BOARD
27 ENTERS INTO ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (8)

1 WITH EITHER THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING
2 CREATED IN SECTION 25.5-1-104 (1) OR THE DEPARTMENT OF HUMAN
3 SERVICES CREATED IN SECTION 26-1-105 C.R.S., MUST BE POSTED ON THE
4 WEBSITE OF THE COMMUNITY-CENTERED BOARD IN A PLACE ON THE
5 WEBSITE THAT IS EASY FOR MEMBERS OF THE PUBLIC TO ACCESS NOT
6 LATER THAN THIRTY DAYS FOLLOWING APPROVAL OF THE CONTRACT BY
7 THE BOARD OF DIRECTORS OF THE COMMUNITY-CENTERED BOARD.

8 **SECTION 3. Appropriation.** (1) For the 2016-17 state fiscal
9 year, \$30,208 is appropriated to the department of health care policy and
10 financing for use by the office of community living. This appropriation
11 is from the intellectual and developmental disabilities services cash fund
12 created in section 25.5-10-207 (1), C.R.S. To implement this act, the
13 office may use this appropriation as follows:

- 14 (a) \$27,382 for personal services, which amount is based on an
15 assumption that the office will require an additional 1.0 FTE; and
16 (b) \$2,826 for operating expenses.

17 (2) For the 2016-17 state fiscal year, the general assembly
18 anticipates that the department of health care policy and financing will
19 receive \$30,208 in federal funds for use by the office of community living
20 to implement this act. The appropriation in subsection (1) of this section
21 is based on the assumption that the office will receive this amount of
22 federal funds to be used as follows:

- 23 (a) \$27,381 for personal services; and
24 (b) \$2,827 for operating expenses.

25 **SECTION 4. Act subject to petition - effective date.** This act
26 takes effect at 12:01 a.m. on the day following the expiration of the
27 ninety-day period after final adjournment of the general assembly (August

1 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
2 referendum petition is filed pursuant to section 1 (3) of article V of the
3 state constitution against this act or an item, section, or part of this act
4 within such period, then the act, item, section, or part will not take effect
5 unless approved by the people at the general election to be held in
6 November 2016 and, in such case, will take effect on the date of the
7 official declaration of the vote thereon by the governor.