

**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. 10-0804.02 Debbie Haskins

HOUSE BILL 10-1353

HOUSE SPONSORSHIP

Pommer, Ferrandino, Lambert

SENATE SPONSORSHIP

Keller, Tapia, White

House Committees
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING FINANCIAL SAVINGS THROUGH THE ALIGNMENT OF**
102 **ELIGIBILITY FOR THE OLD AGE PENSION PROGRAM WITH**
103 **ELIGIBILITY FOR OTHER PUBLIC BENEFIT PROGRAMS, AND, IN**
104 **CONNECTION THEREWITH, ALIGNING THE WAITING PERIOD FOR**
105 **THE OLD AGE PENSION WITH THE WAITING PERIOD FOR OTHER**
106 **PUBLIC BENEFIT PROGRAMS, INCLUDING THE ENFORCEMENT OF**
107 **FINANCIAL RESPONSIBILITY REQUIREMENTS FOR RELATIVE**
108 **SPONSORS OF NONCITIZENS, CREDITING TO THE GENERAL FUND**
109 **OF SALES AND USE TAX REVENUE THAT WAS PREVIOUSLY**
110 **REQUIRED TO BE CREDITED TO THE SUPPLEMENTAL OAP**
111 **HEALTH AND MEDICAL PROGRAM FUND, AND MAKING AN**
112 **APPROPRIATION.**

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.

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>.)

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 and 4 reallocate a portion of sales and use tax revenues from the supplemental OAP health and medical care fund to the general fund.

Sections 5 - 7. Colorado law requires the enforcement of financial responsibility requirements upon 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 5, 6, and 7 of the bill align the noncitizen eligibility for the OAP with those financial responsibility requirements.

Sections 5, 6, and 7 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 5, 6, and 7 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 6** 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 7 of the bill also directs that 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 8 of the bill appropriates moneys in FY 09-10 to the department of health care policy and financing and to the department of human services for the costs to make changes to the Colorado benefits management system to implement this bill.

Section 9 of the bill contains the effective date clause.

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

1 period of confinement as a patient in such institution shall be considered
2 as residence in the state of Colorado.

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

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

13 (B) THE QUALIFIED ALIEN MEETS THE REQUIREMENTS SPECIFIED IN
14 SECTION 26-2-111.8 (2) (a) RELATING TO ENTRY INTO THE UNITED STATES
15 PRIOR TO AUGUST 22, 1996, OR THE REQUIREMENTS SPECIFIED IN SECTION
16 26-2-111.8 (2) (b) REGARDING THE FIVE-YEAR BAR ON RECEIPT OF
17 BENEFITS.

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

25 (III) THE REQUIREMENTS IN SUBPARAGRAPH (I) OF THIS
26 PARAGRAPH (c) DO NOT APPLY TO A QUALIFIED ALIEN WHO MEETS THE
27 ELIGIBILITY CRITERIA FOR THE OLD AGE PENSION IN PARAGRAPH (a) OF

1 THIS SUBSECTION (2) AND WHO IS ALSO ELIGIBLE FOR FEDERAL FINANCIAL
2 BENEFITS PURSUANT TO TITLE XVI OF THE FEDERAL "SOCIAL SECURITY
3 ACT".

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

6 **26-2-111.8. Eligibility of noncitizens for public assistance.**

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

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

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

23 (2) (a) **Entry requirements.** A qualified alien who entered the
24 United States before August 22, 1996, AND WHO MEETS THE ELIGIBILITY
25 CRITERIA SPECIFIED FOR A PARTICULAR PUBLIC ASSISTANCE PROGRAM
26 shall be eligible to receive ~~benefits~~ PUBLIC ASSISTANCE under a ~~state~~
27 ~~program funded by temporary assistance for needy families block grant~~

1 ~~funds under part A of Title IV of the federal "Social Security Act"~~ THE
2 FOLLOWING PROGRAMS AS DESCRIBED IN THIS ARTICLE:

3 (I) THE COLORADO WORKS PROGRAM;

4 (II) THE OLD AGE PENSION;

5 (III) AID TO THE NEEDY DISABLED; OR

6 (IV) AID TO THE BLIND.

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

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

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

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

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

12 **SECTION 3.** The introductory portion to 39-26-123 (3) (a) and
13 39-26-123 (3) (a) (II) (E) and (3) (a) (IV) (B), Colorado Revised Statutes,
14 are amended to read:

15 **39-26-123. Receipts - disposition - transfers of general fund**
16 **surplus - sales and use tax holding fund - creation - definitions -**
17 **repeal.** (3) (a) For any state fiscal year commencing on or after July 1,
18 2006, eighty-five percent of all net revenue collected under the provisions
19 of this article shall be credited to the old age pension fund created in
20 section 1 of article XXIV of the state constitution. The remaining fifteen
21 percent shall be allocated ~~among~~ BETWEEN the general fund AND the older
22 Coloradans cash fund created in section 26-11-205.5 (5), C.R.S., ~~and the~~
23 ~~supplemental old age pension health and medical care fund created in~~
24 ~~section 25.5-2-101 (3), C.R.S.,~~ and credited to the funds by the state
25 treasurer as follows:

26 (II) (E) For any state fiscal year commencing on or after July 1,
27 2009, fifteen percent of all net revenue, less ~~ten~~ EIGHT million ~~eight~~

1 ~~hundred fifty thousand~~ dollars, to the general fund.

2 (IV) (B) ~~For any state fiscal year commencing on or after July 1,~~
3 ~~2009, two million eight hundred fifty thousand dollars to the~~
4 ~~supplemental old age pension health and medical care fund.~~

5 **SECTION 4.** 25.5-2-101 (3) (a), Colorado Revised Statutes, is
6 amended to read:

7 **25.5-2-101. Old age pension health and medical care fund -**
8 **supplemental old age pension health and medical care fund - cash**
9 **system of accounting - legislative declaration - rules - repeal.**

10 (3) (a) There is hereby established in the state department a supplemental
11 health and medical care program to provide health and medical care to
12 persons who qualify to receive old age pensions and who are not patients
13 in an institution for tuberculosis or mental diseases. The state board shall
14 promulgate rules for administration of the supplemental health and
15 medical care program, which shall be based upon and shall provide the
16 same types of services that are provided pursuant to the rules for
17 administration of the health and medical care program described in
18 subsection (2) of this section. When the costs of providing health and
19 medical care in a particular fiscal year to such old age pension recipients
20 exceed the amount available in that fiscal year from the old age pension
21 health and medical care fund created in subsection (2) of this section, the
22 medical care for such recipients shall be provided by the supplemental
23 health and medical care program. The costs of the supplemental health
24 and medical care program shall be paid out of the supplemental old age
25 pension health and medical care fund, which is hereby created in the state
26 treasury. The supplemental old age pension health and medical care fund,
27 referred to as the "supplemental fund", shall consist of ~~state sales and use~~

1 tax revenues allocated to the supplemental fund pursuant to the provisions
2 of section 39-26-123 (3), C.R.S., and any moneys appropriated to the
3 supplemental fund by the general assembly. The general assembly may
4 make annual appropriations or supplemental appropriations to the
5 supplemental fund if it determines that the moneys in the old age pension
6 health and medical care fund created in subsection (2) of this section will
7 be insufficient to meet the health and medical needs of old age pension
8 recipients for a particular fiscal year. Moneys in the supplemental fund
9 shall be subject to annual appropriation by the general assembly. At the
10 end of any fiscal year, any unexpended and unencumbered moneys
11 remaining in the supplemental fund shall remain therein and shall not be
12 credited or transferred to the general fund or any other fund. The
13 supplemental health and medical care program and the supplemental fund
14 shall be effective in fiscal year 2002-03.

15 **SECTION 5.** 26-2-111 (2) (b), Colorado Revised Statutes, is
16 amended to read:

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

1 **SECTION 6.** 26-2-111 (2) (c), Colorado Revised Statutes, as
2 amended by section 1 of House Bill 10-1353, is amended to read:

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

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

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

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

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

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

27 (B) THE PERSON WHO SPONSORED THE QUALIFIED ALIEN'S ENTRY

1 INTO THE UNITED STATES AND WHO SATISFIED SPONSORSHIP FINANCIAL
2 REQUIREMENTS AT THE TIME OF INITIAL SPONSORSHIP NOW HAS
3 INSUFFICIENT INCOME AND RESOURCES TO MEET THE NEEDS OF THE
4 QUALIFIED ALIEN AS DETERMINED PURSUANT TO RULES OF THE STATE
5 DEPARTMENT.

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

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

13 **26-2-111.8. Eligibility of noncitizens for public assistance.**
14 (3.5) FOR BENEFITS PROVIDED ON AND AFTER THE EFFECTIVE DATE OF
15 THIS SUBSECTION (3.5), THE STATE DEPARTMENT MAY PURSUE REPAYMENT
16 FROM THE QUALIFIED ALIEN'S SPONSOR FOR OLD AGE PENSION BENEFITS
17 PROVIDED TO THE QUALIFIED ALIEN DURING THE TIME THAT THE
18 SPONSORSHIP AFFIDAVIT OF SUPPORT IS IN EFFECT AS DETERMINED BY
19 UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, OR ITS
20 SUCCESSOR AGENCY.

21 **SECTION 8. Appropriation.** (1) In addition to any other
22 appropriation, there is hereby appropriated, to the department of health
23 care policy and financing, for allocation to the department of human
24 services medicaid-funded programs, office of information technology
25 services - medicaid funding, for the Colorado benefits management
26 system, for the fiscal year beginning July 1, 2009, the sum of eight
27 thousand six hundred sixty dollars (\$8,660), or so much thereof as may

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

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

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

7 **SECTION 9. Specified effective date.** (1) This section and
8 sections 8 and 10 of this act shall take effect upon passage.

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

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

18 **SECTION 10. 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.