

NOTE: The governor signed this measure on 6/1/2016.

An Act

SENATE BILL 16-038

BY SENATOR(S) Aguilar, Newell, Guzman, Heath, Hodge, Kerr, Merrifield, Steadman, Todd, Kefalas, Ulibarri, Carroll, Crowder, Donovan, Hill, Jahn, Johnston, Jones, Scott;
also REPRESENTATIVE(S) Young and Sias, Esgar, Ginal, Landgraf, Lontine, McCann, Tyler, Becker K., Kagan, Lebsock, Moreno, Pabon, Priola, Ryden, Singer.

CONCERNING MEASURES TO PROMOTE THE TRANSPARENCY OF COMMUNITY-CENTERED BOARDS, AND, IN CONNECTION THEREWITH, MAKING CERTAIN COMMUNITY-CENTERED BOARDS SUBJECT TO PERFORMANCE AUDITS UNDERTAKEN BY THE STATE AUDITOR, MAKING ALL COMMUNITY-CENTERED BOARDS SUBJECT TO THE "COLORADO LOCAL GOVERNMENT AUDIT LAW", EXPANDING PUBLIC DISCLOSURE OF THE ADMINISTRATION AND OPERATIONS OF THE COMMUNITY-CENTERED BOARDS, AND MAKING AN APPROPRIATION.

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

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

(a) By means of the safeguards specified in part 2 of article 10 of title 25.5, Colorado Revised Statutes, and other provisions of law, the state

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

of Colorado has assumed the duty of providing persons with intellectual and developmental disabilities, among the most vulnerable populations in the state, with improved and lengthened life expectancy.

(b) The state of Colorado acknowledges that it takes significant public resources to meet the needs of persons with intellectual and developmental disabilities so as to live full, meaningful lives participating actively in the community.

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

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

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

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

25.5-10-209. Community-centered boards - designation - purchase of services and supports by community-centered boards - performance audits - Colorado local government audit law - public disclosure of board administration and operations. (4) THE STATE

AUDITOR SHALL CONDUCT OR CAUSE TO BE CONDUCTED A PERFORMANCE AUDIT THAT INCLUDES EACH COMMUNITY-CENTERED BOARD THAT RECEIVES MORE THAN SEVENTY-FIVE PERCENT OF ITS FUNDING ON AN ANNUAL BASIS FROM THE FEDERAL, THE STATE, OR A LOCAL GOVERNMENT OR FROM ANY COMBINATION OF SUCH GOVERNMENTAL ENTITIES TO DETERMINE WHETHER SUCH BOARD IS EFFECTIVELY AND EFFICIENTLY FULFILLING ITS STATUTORY OBLIGATIONS. A COMMUNITY-CENTERED BOARD BECOMES SUBJECT TO THE AUDIT REQUIREMENT UNDER THIS SUBSECTION (4) AT SUCH TIME AS THE BOARD INITIALLY SATISFIES THE SEVENTY-FIVE PERCENT FUNDING REQUIREMENT FOR ANY ONE YEAR REGARDLESS OF WHETHER OR NOT THE FUNDING LEVEL DECREASES BELOW SEVENTY-FIVE PERCENT IN ANY SUBSEQUENT YEAR. ANY PERFORMANCE AUDIT THAT IS REQUIRED TO BE CONDUCTED UNDER THIS SUBSECTION (4) MUST BE COMPLETED IN THE FIRST FIVE YEAR PERIOD FOLLOWING THE EFFECTIVE DATE OF THIS SECTION AS AMENDED. THEREAFTER, A PERFORMANCE AUDIT MAY BE CONDUCTED OF SUCH COMMUNITY-CENTERED BOARDS DESCRIBED IN THIS SUBSECTION (4) IF REQUESTED BY THE STATE AUDITOR IN THE EXERCISE OF HIS OR HER DISCRETION. THE STATE AUDITOR SHALL SUBMIT A WRITTEN REPORT AND RECOMMENDATIONS ON EACH AUDIT CONDUCTED UNDER THIS SUBSECTION (4) AND SHALL PRESENT THE REPORT AND RECOMMENDATIONS TO THE LEGISLATIVE AUDIT COMMITTEE CREATED IN SECTION 2-3-101 (1), C.R.S. THE STATE AUDITOR SHALL PAY THE COSTS OF ANY PERFORMANCE AUDIT CONDUCTED PURSUANT TO THIS SECTION.

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

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

(a) THE COMMUNITY-CENTERED BOARD SHALL POST THE DATE, TIME, AND LOCATION OF EACH REGULARLY SCHEDULED MEETING OF ITS BOARD OF DIRECTORS ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD NOT LESS THAN FOURTEEN BUSINESS DAYS PRIOR TO THE DATE OF THE MEETING. THE COMMUNITY-CENTERED BOARD SHALL POST ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD THE DATE, TIME, AND LOCATION OF ANY SPECIAL OR EMERGENCY MEETING OF THE BOARD OF

DIRECTORS NOT LESS THAN TWENTY-FOUR HOURS BEFORE THE MEETING.

(b) EACH COMMUNITY-CENTERED BOARD SHALL POST THE AGENDA FOR EACH MEETING OF ITS BOARD OF DIRECTORS ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD NOT LESS THAN SEVEN BUSINESS DAYS PRIOR TO THE DATE OF THE MEETING. THE COMMUNITY-CENTERED BOARD SHALL POST ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD THE AGENDA OF ANY SPECIAL OR EMERGENCY MEETING OF THE BOARD OF DIRECTORS NOT LESS THAN TWENTY-FOUR HOURS BEFORE THE MEETING. EACH MEETING OF THE BOARD MUST ALLOW FOR PUBLIC COMMENT AND THE AGENDA MUST REFLECT THIS REQUIREMENT. PUBLIC COMMENT MUST BE REASONABLY PERMITTED DURING THE BOARD MEETING TO ACCOMMODATE COMMUNITY NEEDS. ANY DOCUMENTS RELATED TO FUNCTIONS OF THE COMMUNITY-CENTERED BOARD TO BE DISTRIBUTED AT A MEETING OF THE BOARD OF DIRECTORS THAT ARE AVAILABLE FOR PUBLIC DISSEMINATION AT THE TIME THE AGENDA IS POSTED MUST ALSO BE POSTED ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD AT THE TIME THE AGENDA IS POSTED AND WRITTEN COPIES OF SUCH DOCUMENTS MUST BE MADE AVAILABLE FOR PUBLIC DISSEMINATION AT THE BOARD MEETING; EXCEPT THAT, THE POSTING REQUIREMENT SPECIFIED IN THIS PARAGRAPH (b) DOES NOT APPLY TO ANY DOCUMENT, OR ANY PORTION OF SUCH DOCUMENT, THE DISCLOSURE OF WHICH REQUIRES THE APPROVAL OF THE BOARD OF DIRECTORS AND WHICH APPROVAL HAS NOT BEEN OBTAINED AS OF THE TIME THE AGENDA IS POSTED OR ANY OTHER DOCUMENT, OR ANY PORTION OF SUCH DOCUMENT, CONTAINING ANY INFORMATION THAT IS LEGALLY PROHIBITED FROM BEING DISCLOSED TO THE PUBLIC PURSUANT TO THE PRIVACY REQUIREMENTS SPECIFIED IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT, ANY DOCUMENT THAT HAS BEEN OR WILL BE DISCUSSED BY THE BOARD OF DIRECTORS MEETING IN EXECUTIVE SESSION, OR ANY OTHER DOCUMENT THE DISCLOSURE OF WHICH IS OTHERWISE PROHIBITED BY LAW.

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

COMMUNITY-CENTERED BOARD BEFORE IT IS SENT TO THE MEMBER OF THE BOARD OF DIRECTORS.

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

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

(f) EACH COMMUNITY-CENTERED BOARD SHALL PROVIDE TO THE INCOMING MEMBERS OF ITS BOARD OF DIRECTORS TRAINING IN SUCH TOPICS AS THE DUTIES OF A BOARD MEMBER, THE FINANCIAL AND FIDUCIARY RESPONSIBILITIES ASSUMED BY BOARD MEMBERS, THE INTELLECTUAL AND DEVELOPMENTAL DISABILITY SYSTEM IN THE STATE, THE OVERALL BUSINESS FUNCTIONS OF THE COMMUNITY-CENTERED BOARD, AND ANY OTHER MATTERS THAT WILL, IN THE DETERMINATION OF THE COMMUNITY-CENTERED BOARD, ALLOW THE BOARD MEMBER TO BETTER UNDERSTAND AND FULFILL HIS OR HER OBLIGATIONS TO THE BOARD OF DIRECTORS AND THE COMMUNITY-CENTERED BOARD AND THE ROLE PLAYED BY COMMUNITY-CENTERED BOARDS IN THE STATE IN CONNECTION WITH THE DELIVERY OF SERVICES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

(g) EACH COMMUNITY-CENTERED BOARD SHALL POST ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD THE MINUTES OF EACH MEETING OF ITS BOARD OF DIRECTORS AS SUCH MINUTES ARE APPROVED BY THE BOARD OF DIRECTORS. EACH COMMUNITY-CENTERED BOARD SHALL

ALSO POST ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD ANY ADDITIONAL DOCUMENTS THAT WERE DISTRIBUTED TO THE BOARD AT SUCH MEETING THAT WERE NOT, AS OF THAT DATE, ALREADY POSTED ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD UNLESS THE PUBLIC DISTRIBUTION OF SUCH DOCUMENTS, OR ANY PORTION OF SUCH DOCUMENTS, IS OTHERWISE PROHIBITED PURSUANT TO THE PRIVACY REQUIREMENTS SPECIFIED IN THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OR AS OTHERWISE PROHIBITED BY LAW. MINUTES OF SPECIAL MEETINGS OF THE BOARD OF DIRECTORS MUST BE POSTED AFTER APPROVAL BY THE BOARD OF THE SAME AT THE BOARD'S NEXT REGULAR MEETING.

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

(a) POST THE FOLLOWING ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD IN A PLACE ON THE WEBSITE THAT ALLOWS ACCESS TO THE PUBLIC IN A CLEAR, ACCESSIBLE, EASILY OPERATED, AND UNCOMPLICATED MANNER:

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

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

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

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

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

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

(8) ANY CONTRACT THAT EACH COMMUNITY-CENTERED BOARD ENTERS INTO ON OR AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (8) WITH EITHER THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING CREATED IN SECTION 25.5-1-104 (1) OR THE DEPARTMENT OF HUMAN SERVICES CREATED IN SECTION 26-1-105 C.R.S., MUST BE POSTED ON THE WEBSITE OF THE COMMUNITY-CENTERED BOARD IN A PLACE ON THE WEBSITE THAT ALLOWS ACCESS TO THE PUBLIC IN A CLEAR, ACCESSIBLE, EASILY OPERATED, AND UNCOMPLICATED MANNER NOT LATER THAN THIRTY DAYS FOLLOWING APPROVAL OF THE CONTRACT BY THE BOARD OF DIRECTORS OF THE COMMUNITY-CENTERED BOARD.

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

(a) \$27,382 for personal services, which amount is based on an assumption that the office will require an additional 1.0 FTE; and

(b) \$2,826 for operating expenses.

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

funds to be used as follows:

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

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless

approved by the people at the general election to be held in November 2016 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Bill L. Cadman
PRESIDENT OF
THE SENATE

Dickey Lee Hullinghorst
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO