

**Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**PREAMENDED**

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

LLS NO. 20-0445.01 Kristen Forrestal x4217

**HOUSE BILL 20-1263**

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**HOUSE SPONSORSHIP**

**Caraveo and Pelton,**

**SENATE SPONSORSHIP**

**Gonzales,**

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**House Committees**

Business Affairs & Labor  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING THE ELIMINATION OF SUB-MINIMUM WAGE EMPLOYMENT**  
102              **BY PROVIDING SUPPORTS TO ENSURE SUCCESSFUL TRANSITIONS**  
103              **FOR INDIVIDUALS CURRENTLY WORKING IN SUB-MINIMUM WAGE**  
104              **JOBS.**

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**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://leg.colorado.gov>.)*

The bill phases out sub-minimum wage employment for employers that hold a special certificate from the United States department of labor that authorizes employers to pay employees whose earning capacity is

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

impaired by age, physical or mental deficiency, or injury less than the minimum wage. The bill requires each employer that holds a special certificate to submit a transition plan to the Colorado department of labor and employment detailing how the employer plans to phase out sub-minimum wage employment.

The bill requires the employment first advisory partnership in the department of labor and employment to develop actionable recommendations to address structural and fiscal barriers to phase out sub-minimum wage employment and successfully implement competitive integrated employment and report the recommendations to the general assembly.

The bill requires the department of health care policy and financing to grant money to private employers, not to exceed \$25,000 per employer, to provide assistance in developing and implementing a transition plan to phase out sub-minimum wage employment. The bill requires the department of health care policy and financing to add employment-related services for individuals with intellectual and developmental disabilities.

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

2 **SECTION 1.** In Colorado Revised Statutes, 8-6-108.5, **repeal** (2)  
3 as follows:

4 **8-6-108.5. Minimum wage - rules.** (2) ~~An employer may pay a~~  
5 ~~rate of fifteen percent lower than the minimum wage to persons certified~~  
6 ~~by the director to be less efficient due to a physical disability.~~

7 **SECTION 2.** In Colorado Revised Statutes, **add** 8-6-108.7 as  
8 follows:

9 **8-6-108.7. Elimination of sub-minimum wage for individuals**  
10 **with disabilities - legislative declaration - definition - repeal.** (1) THE  
11 GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

12 (a) COLORADO IS AN EMPLOYMENT FIRST STATE COMMITTED TO  
13 THE GOAL OF ACHIEVING COMPETITIVE INTEGRATED EMPLOYMENT FOR  
14 INDIVIDUALS WITH DISABILITIES;

15 (b) ENSURING THAT INDIVIDUALS WITH DISABILITIES HAVE THE

1 OPPORTUNITY TO PURSUE EMPLOYMENT PAID AT MINIMUM WAGE OR  
2 HIGHER IS A CRITICAL ELEMENT OF ACHIEVING THIS GOAL;

3 (c) DUE TO SYSTEMIC BARRIERS, MANY INDIVIDUALS WITH  
4 DISABILITIES ARE PAID LESS THAN THE MINIMUM WAGE APPLICABLE TO  
5 OTHER EMPLOYEES AND HAVE LIMITED OPPORTUNITIES TO PURSUE  
6 COMPETITIVE INTEGRATED EMPLOYMENT;

7 (d) THE PAYMENT OF SUB-MINIMUM WAGES IS AN ECONOMIC  
8 JUSTICE ISSUE FOR INDIVIDUALS WITH DISABILITIES, IMPACTING THEIR  
9 ABILITY TO EARN WAGES EQUAL TO THEIR PEERS WITHOUT DISABILITIES  
10 AND DEVALUING THEIR CONTRIBUTIONS BASED ON THEIR DISABILITIES;

11 (e) SERVICE ENHANCEMENTS AND PUBLIC POLICY CHANGES ARE  
12 NEEDED TO ADDRESS SYSTEMIC BARRIERS AND ASSIST INDIVIDUALS IN  
13 SUB-MINIMUM WAGE JOBS TO PURSUE COMPETITIVE INTEGRATED  
14 EMPLOYMENT; AND

15 (f) THE ELIMINATION OF SUB-MINIMUM WAGE EMPLOYMENT,  
16 ALONG WITH CRITICAL SERVICE ENHANCEMENTS AND POLICY CHANGES, IS  
17 ESSENTIAL TO PROMOTING THE ECONOMIC JUSTICE AND ENHANCED  
18 SELF-SUFFICIENCY OF INDIVIDUALS WITH DISABILITIES WHILE ENSURING  
19 THAT INDIVIDUALS CURRENTLY WORKING IN SUB-MINIMUM WAGE JOBS  
20 CAN SUCCESSFULLY TRANSITION TO COMPETITIVE INTEGRATED  
21 EMPLOYMENT; SUPPORTED EMPLOYMENT; OR INTEGRATED COMMUNITY  
22 ACTIVITIES RELATED TO EACH INDIVIDUAL'S EMPLOYMENT GOALS.

23 (2) (a) AS USED IN THIS SUBSECTION (2), "SPECIAL CERTIFICATE"  
24 MEANS A SPECIAL CERTIFICATE ISSUED BY THE UNITED STATES  
25 DEPARTMENT OF LABOR PURSUANT TO SECTION 214 (c) OF THE "FAIR  
26 LABOR STANDARDS ACT OF 1938", 29 U.S.C. SEC. 201 ET SEQ., AS  
27 AMENDED, TO AN EMPLOYER THAT AUTHORIZES THE EMPLOYER TO PAY

1 EMPLOYEES WHOSE EARNING OR PRODUCTIVE CAPACITY IS IMPAIRED BY  
2 AGE, PHYSICAL OR MENTAL DEFICIENCY, OR INJURY WAGES THAT ARE LESS  
3 THAN THE MINIMUM WAGE.

4 (b) (I) ON AND AFTER JULY 1, 2020, IF AN EMPLOYER DOES NOT  
5 HOLD A SPECIAL CERTIFICATE ISSUED ON OR BEFORE JUNE 30, 2020, THE  
6 EMPLOYER SHALL NOT PAY AN EMPLOYEE AT A WAGE RATE THAT IS BELOW  
7 THE HIGHEST APPLICABLE MINIMUM WAGE.

8 (II) ON AND AFTER JULY 1, 2020, AN EMPLOYER SHALL NOT HIRE  
9 ANY NEW EMPLOYEES AT A WAGE RATE THAT IS BELOW THE HIGHEST  
10 APPLICABLE MINIMUM WAGE.

11 (III) (A) AN EMPLOYER THAT HOLDS A SPECIAL CERTIFICATE  
12 ISSUED ON OR BEFORE JUNE 30, 2020, SHALL SUBMIT A TRANSITION PLAN  
13 TO THE DEPARTMENT OF LABOR AND EMPLOYMENT ON OR BEFORE JUNE 30,  
14 2021, DETAILING HOW THE EMPLOYER PLANS TO PHASE OUT SUB-MINIMUM  
15 WAGE EMPLOYMENT AND SUPPORT INDIVIDUALS CURRENTLY IN  
16 SUB-MINIMUM WAGE JOBS TO PURSUE COMPETITIVE INTEGRATED  
17 EMPLOYMENT; SUPPORTED EMPLOYMENT; OR INTEGRATED COMMUNITY  
18 ACTIVITIES RELATED TO EACH INDIVIDUAL'S EMPLOYMENT GOALS.

19 (B) THE TRANSITION PLAN MUST INCLUDE MEASURABLE  
20 BENCHMARKS, BE INFORMED BY EVIDENCE-BASED PRACTICES AND  
21 EFFECTIVE EMPLOYMENT MODELS, AND BE UPDATED ANNUALLY UNTIL THE  
22 EMPLOYER IS NO LONGER PAYING SUB-MINIMUM WAGES. THE TRANSITION  
23 PLAN MUST BE ALIGNED WITH THE EMPLOYER'S EFFORTS TO COMPLY WITH  
24 FEDERAL HOME- AND COMMUNITY-BASED SERVICES REGULATIONS, IF  
25 APPLICABLE. THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL  
26 COLLABORATE WITH EMPLOYERS AND OTHER INTERESTED STAKEHOLDERS  
27 TO CREATE A PROCESS FOR APPROVING TRANSITION PLANS.

1 (IV) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE JULY 1,  
2 2024.

3 (3) ON AND AFTER JULY 1, 2024, AN EMPLOYER SHALL NOT PAY AN  
4 EMPLOYEE LESS THAN THE HIGHEST APPLICABLE MINIMUM WAGE  
5 REGARDLESS OF WHETHER THE EMPLOYER WAS ISSUED A SPECIAL  
6 CERTIFICATE.

7 SECTION 3. In Colorado Revised Statutes, 8-84-304, add (3.5)  
8 as follows:

9 8-84-304. Duties of the employment first advisory partnership  
10 - strategic plan - repeal. (3.5) (a) ON OR BEFORE APRIL 1, 2021, THE  
11 PARTNERSHIP SHALL DEVELOP ACTIONABLE RECOMMENDATIONS FOR  
12 ADDRESSING STRUCTURAL AND FISCAL BARRIERS TO PHASING OUT  
13 SUB-MINIMUM WAGE EMPLOYMENT AND SUCCESSFULLY IMPLEMENTING  
14 COMPETITIVE INTEGRATED EMPLOYMENT. THE RECOMMENDATIONS TO  
15 ADDRESS BARRIERS SHALL INCLUDE:

16 (I) PAYMENT REFORM FOR EMPLOYMENT-RELATED SERVICES;

17 (II) THE ESTABLISHMENT OF ADEQUATE REIMBURSEMENT RATES  
18 FOR EMPLOYMENT-RELATED SERVICES TO ENSURE THE AVAILABILITY OF  
19 HIGH-QUALITY SUPPORT SERVICES;

20 (III) ADDRESSING UNIT CAPS ON EMPLOYMENT-RELATED SERVICES;

21 AND

22 (IV) ADDRESSING ANY MEDICAID WAIVER AND STATE  
23 REGULATORY BARRIERS.

24 (b) ON OR BEFORE APRIL 1, 2021, THE PARTNERSHIP SHALL SEND  
25 A REPORT TO THE JOINT BUDGET COMMITTEE, THE BUSINESS AFFAIRS AND  
26 LABOR COMMITTEE OF THE HOUSE OF REPRESENTATIVES, AND THE  
27 BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR

1 THEIR SUCCESSOR COMMITTEES, CONCERNING THE RECOMMENDATIONS  
2 REQUIRED IN THIS SUBSECTION (3.5).

3 **SECTION 4.** In Colorado Revised Statutes, **add** 25.5-6-413 as  
4 follows:

5 **25.5-6-413. Elimination of sub-minimum wage - transition**  
6 **plan for individuals with disabilities - waiver - legislative declaration.**

7 (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

8 (a) THE PAYMENT OF SUB-MINIMUM WAGES IS AN ECONOMIC  
9 JUSTICE ISSUE FOR INDIVIDUALS WITH DISABILITIES, IMPACTING THEIR  
10 ABILITY TO EARN WAGES EQUAL TO THEIR PEERS WITHOUT DISABILITIES  
11 AND DEVALUING THEIR CONTRIBUTIONS BASED ON THEIR DISABILITIES;

12 (b) SERVICE ENHANCEMENTS AND PUBLIC POLICY CHANGES ARE  
13 NEEDED TO ADDRESS SYSTEMIC BARRIERS AND ASSIST INDIVIDUALS IN  
14 SUB-MINIMUM WAGE JOBS TO PURSUE COMPETITIVE INTEGRATED  
15 EMPLOYMENT; AND

16 (c) THE ELIMINATION OF SUB-MINIMUM WAGE EMPLOYMENT,  
17 ALONG WITH CRITICAL SERVICE ENHANCEMENTS AND POLICY CHANGES, IS  
18 ESSENTIAL TO PROMOTING THE ECONOMIC JUSTICE AND ENHANCED  
19 SELF-SUFFICIENCY OF INDIVIDUALS WITH DISABILITIES WHILE ENSURING  
20 THAT INDIVIDUALS CURRENTLY WORKING IN SUB-MINIMUM WAGE JOBS  
21 CAN SUCCESSFULLY TRANSITION TO COMPETITIVE INTEGRATED  
22 EMPLOYMENT; SUPPORTED EMPLOYMENT; OR INTEGRATED COMMUNITY  
23 ACTIVITIES RELATED TO EACH INDIVIDUAL'S EMPLOYMENT GOALS.

24 

25 (2) (a) ON OR BEFORE JANUARY 1, 2022, THE STATE DEPARTMENT  
26 SHALL SEEK FEDERAL APPROVAL TO ADD THE FOLLOWING MEDICAID  
27 WAIVER SERVICES FOR ADULTS WITH INTELLECTUAL AND DEVELOPMENTAL

1       DISABILITIES FOR ASSISTANCE WITH PURSUING COMPETITIVE INTEGRATED  
2       EMPLOYMENT:

3           (I)    SUPPORT TO ASSIST INDIVIDUALS WITH ENGAGING IN  
4       MEANINGFUL COMMUNITY ACTIVITIES TO HELP DEVELOP SOCIAL CAPITAL  
5       AND LEARN AND BUILD ON SKILLS RELATED TO EACH INDIVIDUAL'S  
6       IDENTIFIED EMPLOYMENT GOALS PROVIDED ON AN INDIVIDUALIZED BASIS  
7       WITH ONE-TO-ONE SUPPORT;

8           (II) SUPPORT TO PROVIDE LINE-OF-SIGHT SUPERVISION ON THE JOB  
9       AS A LESS INTENSIVE AND LESS EXPENSIVE ALTERNATIVE TO INDIVIDUAL  
10      JOB COACHING, WHEN APPROPRIATE; AND

11          (III) ONGOING BENEFITS COUNSELING TO ASSIST ADULTS IN  
12      EARNING HIGHER INCOMES WHILE RETAINING NECESSARY SUPPORTS.

13          (b)    THE STATE DEPARTMENT SHALL COLLABORATE WITH  
14      STAKEHOLDERS TO DEVELOP SERVICE COVERAGE STANDARDS,  
15      REIMBURSEMENT RATES, AND LIMITATIONS ON THE SERVICES DESCRIBED  
16      IN SUBSECTION (2)(a) OF THIS SECTION.

17          (3)    THE STATE DEPARTMENT SHALL REMOVE THE FOLLOWING  
18      SERVICES FROM THE SERVICE PLAN AUTHORIZATION LIMITS TO ENSURE  
19      ACCESS TO EMPLOYMENT SUPPORTS:

20           (a)    JOB COACHING, INDIVIDUAL; AND

21           (b)    JOB DEVELOPMENT, INDIVIDUAL.

22          (4)    THE STATE DEPARTMENT SHALL COLLABORATE WITH  
23      STAKEHOLDERS TO PUBLISH CLARIFYING GUIDANCE REGARDING BILLABLE  
24      ACTIVITIES UNDER SERVICES DESCRIBED IN SUBSECTION (3) OF THIS  
25      SECTION.

26          **SECTION 5.** In Colorado Revised Statutes, 25.5-6-1403, **amend**  
27      (4) as follows:

1           **25.5-6-1403. Waivers and amendments.** (4) The state  
2 department shall seek federal authorization to implement a medicaid  
3 buy-in program for adults who are eligible to receive home- and  
4 community-based services pursuant to the supported living services  
5 waiver; THE DEVELOPMENTAL DISABILITIES WAIVER OR ITS SUCCESSOR,  
6 PART 4 OF THIS ARTICLE 6; the persons with brain injury waiver, part 7 of  
7 this ~~article~~ ARTICLE 6; and the spinal cord injury waiver pilot program,  
8 part 13 of this ~~article~~ ARTICLE 6. The state department shall prepare and  
9 submit any requests necessary for federal approval not later than January  
10 1, ~~2017~~ 2021, and shall implement the medicaid buy-in program pursuant  
11 to this subsection (4) not later than three months after receiving federal  
12 approval.

13           **SECTION 6. Effective date - applicability.** This act takes effect  
14 July 1, 2020, and applies to wages paid on or after said date.

15           **SECTION 7. Safety clause.** The general assembly hereby finds,  
16 determines, and declares that this act is necessary for the immediate  
17 preservation of the public peace, health, or safety.