

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

**PREAMENDED**

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

LLS NO. 26-0940.01 Owen Hatch x2698

**SENATE BILL 26-159**

---

**SENATE SPONSORSHIP**

**Weissman and Gonzales J.,**

**HOUSE SPONSORSHIP**

**Mabrey and Martinez,**

---

**Senate Committees**  
Judiciary

**House Committees**

---

**A BILL FOR AN ACT**

101 **CONCERNING MEASURES FOR MANAGING THE CAPACITY OF THE**  
102 **DEPARTMENT OF CORRECTIONS.**

---

**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 adjusts certain earned time formulas for an inmate serving a sentence to the department of corrections (DOC). The DOC is directed to enact policy changes to incentivize inmates to pursue activities that award earned time.

The bill creates a working group to make recommendations for a capacity management plan for the DOC with input from impacted groups.

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

---

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

2           **SECTION 1.** In Colorado Revised Statutes, 17-22.5-405, **amend**  
3 (1.5)(a), (1.5)(b), and (9)(a); \_\_\_ and **add** (1.5)(a.5), (9)(a.7) and (10) as  
4 follows:

5           **17-22.5-405. Earned time - earned release time - achievement**  
6 **earned time - working group - definition - repeal.**

7                 \_\_\_\_\_  
8           (1.5) (a) EXCEPT AS PROVIDED IN SUBSECTION (1.5)(a.5) OF THIS  
9 SECTION, earned time, not to exceed ~~twelve~~ FOURTEEN days for each  
10 month of incarceration or parole, may be deducted from an inmate's  
11 sentence if the inmate:

12           (I) Is serving a sentence for a class 4, class 5, or class 6 felony or  
13 level 3 or level 4 drug felony;

14           (II) Has not incurred a class I code of penal discipline violation  
15 within the twenty-four months immediately preceding the time of  
16 crediting or during ~~his or her~~ THE INMATE'S entire term of incarceration  
17 if the term is less than twenty-four months or a class II code of penal  
18 discipline violation within the twelve months immediately preceding the  
19 time of crediting or during ~~his or her~~ THE INMATE'S entire term of  
20 incarceration if the term is less than twelve months; AND

21           (III) Is program-compliant. ~~and~~

22           (IV) ~~Was not convicted of, and has not previously been convicted~~  
23 ~~of, a felony crime described in section 18-3-303, 18-3-305, 18-3-306, or~~  
24 ~~18-6-701, sections 18-7-402 to 18-7-407, or section 18-12-102 or~~  
25 ~~18-12-109, C.R.S., or a felony crime listed in section 24-4.1-302 (1);~~  
26 ~~C.R.S.~~

1           (a.5) NOTWITHSTANDING THE FOURTEEN-DAY LIMITATION IN  
2           SUBSECTION (1.5)(a) OF THIS SECTION, AN INMATE CONVICTED OF, OR AN  
3           INMATE WHO HAS PREVIOUSLY BEEN CONVICTED OF, A FELONY CRIME  
4           DESCRIBED IN SECTION 18-3-303, 18-3-305, 18-3-306, OR 18-6-701;  
5           SECTIONS 18-7-402 TO 18-7-407; SECTION 18-12-102 OR 18-12-109; A  
6           FELONY MOTOR VEHICLE THEFT; OR A FELONY CRIME LISTED IN SECTION  
7           24-4.1-302 (1), IS LIMITED TO TWELVE DAYS OF EARNED TIME PER MONTH.

8           (b) The earned time specified in subsection (1.5)(a) SUBSECTION  
9           (1.5) of this section may be deducted based upon a demonstration to the  
10           department by the inmate, which is certified by the inmate's case manager  
11           or community parole officer, that he or she has made positive progress in  
12           accordance with performance standards established by the department.

13           (9) (a) (I) Notwithstanding any provision of this section to the  
14           contrary, in addition to the earned time authorized in this section, an  
15           offender who successfully completes a milestone or phase of an  
16           educational, vocational, therapeutic, or reentry program ~~or who~~  
17           ~~demonstrates exceptional conduct that promotes the safety of correctional~~  
18           ~~staff, volunteers, contractors, or other persons under the supervision of~~  
19           ~~the department of corrections,~~ may be awarded as many as sixty days of  
20           achievement earned time per program milestone or phase, ~~or per instance~~  
21           ~~of exceptional conduct,~~ at the discretion of the executive director; except  
22           that an offender shall not be awarded more than one hundred twenty days  
23           of achievement earned time pursuant to this subsection (9).

24           (II) THE DEPARTMENT OF CORRECTIONS SHALL MAKE POLICY  
25           CHANGES TO MAXIMIZE THE INCENTIVES TO PARTICIPATE IN ACTIVITIES  
26           THAT AWARD ACHIEVEMENT EARNED TIME FOR OFFENDERS WHO COMMIT  
27           TO AND PARTICIPATE IN SELF-IMPROVEMENT ACTIVITIES, INCLUDING

1 THERAPEUTIC AND EDUCATIONAL PROGRAMMING. APPLICABLE POLICY  
2 CHANGES MAY INCLUDE, BUT ARE NOT LIMITED TO:

3 (A) ENSURING THAT PROGRAMS OF SIMILAR INTENSITY AND  
4 DURATION ARE AWARDED A SIMILAR NUMBER OF CREDITS;

5 (B) INCREASING CREDIT AWARDS FOR SUSTAINED, HIGH  
6 ENGAGEMENT IN WORK ASSIGNMENTS; AND

7 (C) INCREASING CREDIT AWARDS FOR THE COMPLETION OF A  
8 PROGRAM.

9 (III) FOR OFFENDERS WHO SUCCESSFULLY COMPLETE A MILESTONE  
10 OR PHASE OF A BEHAVIORAL HEALTH PROGRAM IN AN AREA RELATED TO  
11 RECOVERY FROM A CONDITION THAT CONTRIBUTED TO THE OFFENDER'S  
12 UNDERLYING OFFENSE, INCLUDING SUBSTANCE USE TREATMENT, ANGER  
13 MANAGEMENT, OR OTHER BEHAVIORAL HEALTH NEEDS, AS RECOMMENDED  
14 BASED ON NEEDS IDENTIFIED ON THE INTAKE ASSESSMENT, THE TOTAL  
15 ACHIEVEMENT EARNED TIME THAT CAN BE AWARDED PURSUANT TO THIS  
16 SUBSECTION (9)(a) IS ONE HUNDRED FIFTY DAYS.

17 (a.7) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
18 CONTRARY, IN ADDITION TO THE EARNED TIME AUTHORIZED IN THIS  
19 SECTION, AN OFFENDER WHO DEMONSTRATES EXCEPTIONAL CONDUCT  
20 THAT PROMOTES THE SAFETY OF CORRECTIONAL STAFF, VOLUNTEERS,  
21 CONTRACTORS, OR OTHER PERSONS UNDER THE SUPERVISION OF THE  
22 DEPARTMENT OF CORRECTIONS MAY BE AWARDED AS MANY AS SIXTY  
23 DAYS OF ACHIEVEMENT EARNED TIME PER INSTANCE OF EXCEPTIONAL  
24 CONDUCT, AT THE DISCRETION OF THE EXECUTIVE DIRECTOR; EXCEPT THAT  
25 AN OFFENDER SHALL NOT BE AWARDED MORE THAN ONE HUNDRED  
26 TWENTY DAYS OF ACHIEVEMENT EARNED TIME PURSUANT TO THIS  
27 SUBSECTION (9)(a.7).

1           (10) (a) THERE IS CREATED THE DEPARTMENT OF CORRECTIONS  
2 COMPREHENSIVE PLANNING WORKING GROUP, REFERRED TO IN THIS  
3 SECTION AS THE "WORKING GROUP". THE EXECUTIVE DIRECTOR OF THE  
4 DEPARTMENT, OR THEIR DESIGNEE, SHALL SERVE AS CHAIR OF THE  
5 WORKING GROUP. THE WORKING GROUP SHALL DEVELOP  
6 RECOMMENDATIONS FOR A CAPACITY MANAGEMENT PLAN FOR THE  
7 DEPARTMENT THAT IS DATA-DRIVEN, ALIGNS WITH BEST PRACTICES, AND  
8 IS INFORMED BY THE INPUT OF DEPARTMENT STAFF, INCARCERATED  
9 PEOPLE, VICTIMS, AND OTHER CRIMINAL JUSTICE STAKEHOLDERS AND  
10 SUBJECT MATTER EXPERTS REGARDING STRATEGIES TO:

11           (I) ASSESSEFFICACY, AVAILABILITY, ANDGAPSGREGARDING PRISON  
12 PROGRAMMING AND CLINICAL CARE TO MAXIMIZE INMATE  
13 REHABILITATION AND PREPARATION FOR RELEASE;

14           (II) IDENTIFY BOTTLENECKS AND INEFFICIENCIES REGARDING  
15 INMATE RELEASE PROCESSES, CROSS-AGENCY COORDINATION, VICTIM  
16 NOTIFICATION AND ENGAGEMENT, AND INMATE RELEASE  
17 DECISION-MAKING;

18           (III) ENSURE THAT APPROPRIATE SUPERVISION, PLACEMENT  
19 OPTIONS, AND SERVICES ARE AVAILABLE TO IMPROVE SUCCESSFUL  
20 OUTCOMES FOR PERSONS RELEASED FROM PRISON;

21           (IV) MANAGE GROWTH IN PRISON POPULATION TO AVOID  
22 OVERCROWDING; AND

23           (V) IDENTIFY CHANGES NEEDED TO CURRENT PRISON  
24 OPERATIONAL CAPACITY, INMATE CLASSIFICATION, OR FACILITY SECURITY  
25 CLASSIFICATION LEVEL TO MOST COST-EFFECTIVELY ADDRESS CURRENT  
26 PRISON BED UTILIZATION AND ANY PROJECTED FUTURE PRISON BED NEEDS  
27 TO ENSURE ALIGNMENT BETWEEN THE CLASSIFICATION LEVEL OF THE

1 INMATE POPULATION AND THE SECURITY LEVEL OF PRISON BEDS  
2 AVAILABLE OR NEEDED.

3 (b) THE WORKING GROUP CONSISTS OF:

4 (I) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT, OR THEIR  
5 DESIGNEE, WHO IS THE CHAIR OF THE WORKING GROUP;

6 (II) THE EXECUTIVE DIRECTOR OF THE DIVISION OF CRIMINAL  
7 JUSTICE IN THE DEPARTMENT OF PUBLIC SAFETY, OR THEIR DESIGNEE;

8 (III) ONE DISTRICT ATTORNEY, OR THEIR DESIGNEE, APPOINTED BY  
9 THE EXECUTIVE DIRECTOR OF THE COLORADO DISTRICT ATTORNEYS'  
10 COUNCIL;

11 (IV) ONE PUBLIC DEFENDER, OR THEIR DESIGNEE, APPOINTED BY  
12 THE STATE PUBLIC DEFENDER;

13 (V) ONE SHERIFF, OR THEIR DESIGNEE, APPOINTED BY THE  
14 PRESIDENT OF THE COUNTY SHERIFFS OF COLORADO BOARD OF DIRECTORS;

15 (VI) ONE BEHAVIORAL HEALTH EXPERT OR PROFESSIONAL,  
16 APPOINTED BY THE PRESIDENT OF THE SENATE;

17 (VII) ONE MEDICAL PROFESSIONAL WITH EXPERIENCE IN  
18 PRISON-BASED HEALTH SERVICES, APPOINTED BY THE PRESIDENT OF THE  
19 SENATE;

20 (VIII) ONE CRIME VICTIM OR SURVIVOR, OR A REPRESENTATIVE OF  
21 A GROUP THAT ADVOCATES FOR CRIME VICTIMS OR SURVIVORS, APPOINTED  
22 BY THE HOUSE MINORITY LEADER;

23 (IX) ONE FORMERLY INCARCERATED PERSON, OR A  
24 REPRESENTATIVE OF A GROUP THAT ADVOCATES FOR INCARCERATED OR  
25 FORMERLY INCARCERATED PERSONS, APPOINTED BY THE SPEAKER OF THE  
26 HOUSE;

27 (X) ONE REPRESENTATIVE OF AN ORGANIZATION WITH EXPERIENCE

1 IN COMMUNITY-BASED RE-ENTRY SERVICES, APPOINTED BY THE SPEAKER  
2 OF THE HOUSE;

3 (XI) ONE CURRENT OR FORMER STATE BOARD OF PAROLE MEMBER,  
4 APPOINTED BY THE CHAIR OF THE STATE BOARD OF PAROLE;

5 (XII) ONE CURRENT COMMUNITY CORRECTIONS REPRESENTATIVE,  
6 APPOINTED BY THE SENATE MINORITY LEADER; AND

7 (XIII) ONE CURRENT EMPLOYEE OF THE DEPARTMENT, APPOINTED  
8 BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT.

9 (c) MEMBERS OF THE HOUSE OF REPRESENTATIVES JUDICIARY  
10 COMMITTEE AND THE SENATE JUDICIARY COMMITTEE, OR THEIR  
11 SUCCESSOR COMMITTEES, AND THE JOINT BUDGET COMMITTEE, MAY  
12 SUBMIT IN WRITING TO THE CHAIR OF THE WORKING GROUP A REQUEST TO  
13 PRIORITIZE SPECIFIC ISSUES OR PROVIDE OTHER RELEVANT INFORMATION.

14 (d) THE WORKING GROUP MAY REQUEST INFORMATION FROM THE  
15 DEPARTMENT OF CORRECTIONS AND THE CERTIFIED EMPLOYEE  
16 ORGANIZATION DEFINED IN SECTION 24-50-1102 FOR PURPOSES OF  
17 ASSESSING UNDERLYING CONDITIONS AND THE OPERATIONAL FEASIBILITY  
18 OF RECOMMENDATIONS.

19 (e) (I) THE WORKING GROUP SHALL SOLICIT INPUT FROM  
20 DEPARTMENT STAFF, THE DEPARTMENT OF PERSONNEL AND  
21 ADMINISTRATION AND THE CERTIFIED EMPLOYEE ORGANIZATION DEFINED  
22 IN SECTION 24-50-1102, INMATES, INMATE FAMILIES, CRIME VICTIMS OR  
23 SURVIVORS, CRIMINAL JUSTICE STAKEHOLDERS, ELECTED OFFICIALS AT  
24 THE STATE AND LOCAL LEVEL, THE LEGISLATIVE COUNCIL, JOINT BUDGET  
25 COMMITTEE STAFF, STATE AGENCIES, AND OTHER PERSONS WITH SUBJECT  
26 MATTER EXPERTISE.

27 (II) THE WORKING GROUP SHALL NOT BARGAIN, NEGOTIATE, OR

1 OTHERWISE MAKE RECOMMENDATIONS RELATED TO ANY MATTERS THAT  
2 ARE SUBJECT TO THE EXCLUSIVE PARTNERSHIP PROCESS BETWEEN THE  
3 STATE AND THE CERTIFIED EMPLOYEE ORGANIZATIONS PURSUANT TO  
4 SECTION 24-50-1112 (2).

5 (f) THE CHAIR OF THE WORKING GROUP MAY SOLICIT AND ACCEPT  
6 GIFTS, GRANTS, AND DONATIONS TO SUPPORT THE WORKING GROUP,  
7 INCLUDING FOR FACILITATION, RESEARCH, STRATEGIC PLANNING, REPORT  
8 WRITING, AND SURVEYS OR OTHER METHODS TO PURSUE THE GOALS LISTED  
9 IN SUBSECTION (10)(a) OF THIS SECTION, IN ACCORDANCE WITH  
10 APPLICABLE STATE LAWS.

11 (g) THE WORKING GROUP SHALL SUBMIT AN INTERIM REPORT TO  
12 THE GENERAL ASSEMBLY, THE DEPARTMENT'S CERTIFIED EMPLOYEE  
13 ORGANIZATION, AND THE GOVERNOR'S OFFICE IN DECEMBER 2026 AND A  
14 FINAL REPORT ON JUNE 30, 2028.

15 (h) THIS SUBSECTION (10) IS REPEALED, EFFECTIVE JANUARY 15,  
16 2029.

17 **SECTION 2. Applicability.** This act applies to an inmate  
18 accruing earned time on or after the effective date of this act.

19 **SECTION 3. Safety clause.** The general assembly finds,  
20 determines, and declares that this act is necessary for the immediate  
21 preservation of the public peace, health, or safety or for appropriations for  
22 the support and maintenance of the departments of the state and state  
23 institutions.