

CHAPTER 279

STATUTES

SENATE BILL 93-242

BY SENATORS Wham, Bishop, Johnson, and Weissmann;
also REPRESENTATIVES Adkins, George, R. Hernandez, Keller, Knox, Lyle, Rupert, and Wright.

AN ACT

CONCERNING CHANGES IN TERMINOLOGY REGARDING PERSONS WITH DISABILITIES IN THE COLORADO REVISED STATUTES.

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

SECTION 1. 1-2-225 (1), (2), (3), (4), (5), and (6), Colorado Revised Statutes, 1980 Repl. Vol., as amended, are amended to read:

1-2-225. Change of polling place - accessibility for persons with disabilities.

(1) The general assembly hereby finds, determines, and declares that the purpose of this section is to protect the fundamental right of ~~handicapped~~ citizens WITH DISABILITIES to vote. The general assembly further finds that, where reasonable polling place access for ~~physically handicapped~~ electors WITH DISABILITIES cannot be provided, other reasonable accommodations should be made to enable those electors to cast their votes.

(2) The elector information card required to be sent to all registered electors pursuant to section 1-2-224 shall include a notice to the elector indicating whether the polling place for the elector is accessible to ~~the physically handicapped~~ PERSONS WITH DISABILITIES. The information card shall also include an affidavit which may be signed and returned to the county clerk and recorder indicating that the elector to whom the information card was sent ~~is physically handicapped~~ HAS A DISABILITY and requesting a change of polling place assignment to a location that is accessible to ~~the physically handicapped~~ PERSONS WITH DISABILITIES.

(3) Any registered ~~physically handicapped~~ elector WITH A DISABILITY, or a family member living at the same address as the elector and acting for the elector, may appear at the county clerk and recorder's office in the county in which the elector is

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

registered and sign an affidavit requesting a temporary change of polling place to a place that is accessible to ~~the physically handicapped~~ PERSONS WITH DISABILITIES.

(4) Upon receiving an affidavit requesting a polling place change pursuant to this section, a county clerk and recorder shall temporarily assign the requesting elector to a polling place that uses the same ballot type as the permanently assigned location and is accessible to ~~the physically handicapped~~ PERSONS WITH DISABILITIES, if such a place exists. If more than one such polling place exists, the county clerk and recorder shall assign the polling place that is closest to the elector's residence.

(5) A family member living at the same address as an elector who has changed polling places pursuant to subsection (2) or (3) of this section may also change polling places to vote at the same polling place as the ~~physically handicapped~~ elector WITH A DISABILITY by filing a request with the county clerk and recorder containing the information required by the county clerk and recorder.

(6) Any request for a change of polling place to a polling place which is accessible to ~~the physically handicapped~~ PERSONS WITH DISABILITIES must be received by the county clerk and recorder at least ten days prior to the election for which the change is requested.

SECTION 2. 1-8-112, Colorado Revised Statutes, 1980 Repl. Vol., as amended, is amended to read:

1-8-112. Absentee polling place. Each political subdivision shall provide, in addition to the precinct polling places, one or more ~~handicapped accessible~~ absentee polling places ACCESSIBLE FOR PERSONS WITH DISABILITIES, which shall be provided with suitable quarters, ballot boxes or voting machines, and other necessary supplies as provided by law in the case of precinct polling places; except that voting booths may be provided in precincts using paper ballots.

SECTION 3. 8-6-108.5 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

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

SECTION 4. 9-5-101 (6), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

9-5-101. Definitions. As used in this article, unless the context otherwise requires:

(6) "Hearing disabilities" means deafness or hearing ~~handicaps~~ IMPAIRMENTS that might make an individual insecure in public areas because ~~he~~ THE INDIVIDUAL is unable to communicate or hear warning signals.

SECTION 5. 9-5-103 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

9-5-103. Disabilities covered - purpose. (2) It is intended to make all buildings

and facilities covered by this article accessible to and functional for ~~the physically handicapped~~ PERSONS WITH DISABILITIES to, through, and within their doors without loss of function, space, or facility where the general public is concerned.

SECTION 6. The introductory portion to 9-5-106 (6) (a) and 9-5-106 (6) (b), Colorado Revised Statutes, 1986 Repl. Vol., are amended to read:

9-5-106. Ramps. (6) (a) An appropriate number of toilet rooms, in accordance with the nature and use of a specific building or facility, shall be accessible to and usable by ~~the physically handicapped~~ PERSONS WITH DISABILITIES. Toilet rooms shall have space to allow traffic of individuals in ~~wheel chairs~~ WHEELCHAIRS in accordance with section 9-5-104. Toilet rooms shall have at least one toilet stall that:

(b) Toilet rooms shall have lavatories with narrow aprons which, when mounted at standard height, are usable by individuals in wheelchairs or shall have lavatories mounted higher, when particular designs demand, so that they are usable by individuals in wheelchairs, and hot water pipes on lavatories specifically intended for ~~the handicapped~~ PERSONS WITH DISABILITIES shall be insulated.

SECTION 7. 9-5-110 (2), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

9-5-110. Responsibility for enforcing standards. (2) The government unit responsible for enforcement of this article may exempt any building or facility from any provision of this article upon a finding that compliance with such provision would subject an undue hardship on the taxpayers of the governmental unit liable for the cost of such compliance in relation to the benefits to ~~the physically handicapped~~ PERSONS WITH DISABILITIES that are derived from such compliance.

SECTION 8. 9-5-112, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

9-5-112. Residential building project requirement. Before any construction of a residential building project may be started, which project includes seven or more residential units, a contract shall be entered into with the governing body of the municipality, city, town, county, or city and county where said project is to be located. Said contract shall guarantee to the governing body that the specific number of residential units for ~~the handicapped~~ PERSONS WITH DISABILITIES, as provided in section 9-5-111, shall be constructed in such a manner as to be easily accessible and adaptable for ~~the handicapped~~ PERSONS WITH DISABILITIES and shall require the builder of such project to certify that said accessible and adaptable units will substantially comply with the standards promulgated by the American National Standard Institute, pamphlet number A117.1-1980.

SECTION 9. 10-8-203 (5), Colorado Revised Statutes, 1987 Repl. Vol., is amended to read:

10-8-203. Definitions. As used in this part 2, unless the context otherwise requires:

(5) "Dependent" means an employee's spouse; each unmarried child under nineteen

years of age, including adopted children, stepchildren, and foster children; each unmarried child nineteen years of age and under twenty-three years of age who is a full-time student in an educational or vocational institution and for whom the employee is the major source of financial support; and each unmarried child over nineteen years of age who ~~is~~ HAS either ~~physically or mentally handicapped~~ A PHYSICAL OR MENTAL DISABILITY, as defined by the insurance carrier, not covered under other government programs, and for whom the employee is the major source of financial support.

SECTION 10. 12-8-121 (1) (b) (II), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-8-121. Exemptions. (1) Nothing in this article shall prohibit services by:

(b) Licensed or unlicensed volunteers in the performance of charitable services for washing and setting the hair of:

(II) Persons confined to their homes by reason of age, physical or mental infirmity, or physical ~~handicap~~ DISABILITY.

SECTION 11. 12-39-101, Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-39-101. Legislative declaration. The general assembly declares that the intent of this article is to provide a measure of protection to the ~~aged and handicapped~~ residents of nursing homes in this state WHO ARE AGED OR WHO HAVE DISABILITIES by providing a means of regulation of nursing home administrators to insure quality administration and sound management of nursing homes. It is also the intent of the general assembly that the board of examiners of nursing home administrators be adequately funded to carry out the duties and functions specified by this article as well as the legislative intent expressed in this section.

SECTION 12. 12-47.1-517 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47.1-517. Buildings - accessible to persons with disabilities. (1) All premises where limited gaming is conducted shall be accessible to and functional for ~~the physically handicapped~~ PERSONS WITH PHYSICAL DISABILITIES.

SECTION 13. 12-47.1-834 (1), Colorado Revised Statutes, 1991 Repl. Vol., is amended to read:

12-47.1-834. Buildings - accessible to persons with disabilities. (1) All premises where limited gaming is conducted shall be accessible to and functional for ~~the physically handicapped~~ PERSONS WITH PHYSICAL DISABILITIES.

SECTION 14. 16-1-104 (8.5) (a) (I) and (8.5) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

16-1-104. Definitions. (8.5) (a) (I) "Crime of violence" means a crime in which the defendant used, or possessed and threatened the use of, a deadly weapon during

the commission or attempted commission of any crime committed against an elderly PERSON or ~~handicapped~~ A person WITH A DISABILITY or a crime of murder, first or second degree assault, kidnapping, sexual assault, robbery, first degree arson, first or second degree burglary, escape, or criminal extortion, or during the immediate flight therefrom, or the defendant caused serious bodily injury or death to any person, other than himself OR HERSELF or another participant, during the commission or attempted commission of any such felony or during the immediate flight therefrom.

(b) As used in this subsection (8.5), "elderly person" means a person who is sixty years of age or older. "~~Handicapped person~~" "PERSON WITH A DISABILITY" means a person who is disabled because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision in both eyes to such a degree as to constitute virtual blindness.

SECTION 15. 16-11-309 (1) (b), (2) (a) (I), and (2) (b), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

16-11-309. Mandatory sentences for violent crimes. (1) (b) Any person convicted of a crime against an elderly PERSON, ~~or handicapped~~ A person WITH A DISABILITY, or AN at-risk adult in which ~~he~~ THE CONVICTED PERSON used, or possessed and threatened the use of, a deadly weapon shall be sentenced to a term of incarceration of at least the midpoint in the presumptive range provided for such offense in section 18-1-105 (1) (a), C.R.S., without suspension. Thereafter, the provisions of paragraph (a) of this subsection (1) shall apply.

(2) (a) (I) "Crime of violence" means a crime in which the defendant used, or possessed and threatened the use of, a deadly weapon during the commission or attempted commission of any crime committed against an elderly PERSON, ~~or handicapped~~ A person WITH A DISABILITY, or AN at-risk adult or a crime of murder, first or second degree assault, kidnapping, sexual assault, robbery, first degree arson, first or second degree burglary, escape, or criminal extortion, or during the immediate flight therefrom, or the defendant caused serious bodily injury or death to any person, other than himself OR HERSELF or another participant, during the commission or attempted commission of any such felony or during the immediate flight therefrom.

(b) As used in this section, "elderly person" means a person who is sixty years of age or older; "~~handicapped person~~" "PERSON WITH A DISABILITY" means a person who is disabled because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision in both eyes to such a degree as to constitute virtual blindness; and "at-risk adult" has the same meaning as set forth in section 18-6.5-102 (1), C.R.S.

SECTION 16. 17-22.5-404 (2) (a) (VII), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-22.5-404. Parole guidelines. (2) (a) In considering offenders for parole, the board shall consider, but need not be limited to, the following factors:

(VII) Whether the offender has diligently attempted but has been unable to obtain employment that provides the offender sufficient income, whether the offender has an employment ~~handicap~~ DISABILITY, or whether the offender's age prevents him OR HER

from obtaining employment;

SECTION 17. 17-32-105 (3) (b) (V), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

17-32-105. Development of correctional education program - goals and objectives. (3) (b) A person in a correctional facility who lacks basic and functional literacy skills shall be required to attend adult basic education instruction unless such person:

(V) Is, because of a ~~handicapping condition~~ DISABILITY, at a maximum level of proficiency;

SECTION 18. 18-3-209, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

18-3-209. Assault on the elderly or the disabled - legislative declaration.

(1) A person who commits second or third degree assault and the victim is a person who is sixty years of age or older or disabled because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision in both eyes to such a degree as to constitute virtual blindness commits assault on the elderly or ~~the handicapped~~ ON PERSONS WITH DISABILITIES.

(2) If the assault on the elderly or ~~the handicapped~~ ON PERSONS WITH DISABILITIES is second degree assault and is committed without the circumstances provided in section 18-3-203 (2) (a) being present, it is a class 3 felony. If the assault on the elderly or ~~the handicapped~~ ON PERSONS WITH DISABILITIES is second degree assault as defined in section 18-3-203 (1) (b) or (1) (d), the court shall sentence the defendant in accordance with the provisions of section 16-11-309, C.R.S.

(3) If the assault on the elderly or ~~the handicapped~~ ON PERSONS WITH DISABILITIES is third degree assault, it is a class 5 felony.

(4) If the elderly ASSAULT VICTIM or ~~handicapped~~ assault victim WITH A DISABILITY has sustained monetary damages, the court may order the offender to provide restitution pursuant to section 16-11-204.5 and article 28 of title 17, C.R.S. If, after a reasonable period not to exceed one hundred eighty days, the offender has not initiated restitution, the offender's probation may be revoked.

(5) The general assembly recognizes that fear of crime is one of the major personal concerns of elderly persons and ~~handicapped~~ persons WITH DISABILITIES and that elderly persons and ~~handicapped~~ persons WITH DISABILITIES are more vulnerable to and disproportionately damaged by crime because they are less able to escape offenders and are more likely to receive serious injury. The elderly and ~~the handicapped~~ PERSONS WITH DISABILITIES are particularly impacted by crimes of assault because they tend to suffer the greatest relative deprivation - financially, physically, and psychologically - as a result of the crimes against them. Elderly persons and ~~handicapped~~ persons WITH DISABILITIES are seldom as physically or emotionally equipped to protect themselves or aid in their own security as are their younger or more physically able counterparts in society. At the same time, they are far more susceptible than other groups to the adverse long-term effects of assault. The

general assembly therefore finds that the penalty for the crime of assault on an elderly PERSON or ~~handicapped~~ A person WITH A DISABILITY should be more severe than the penalty for assault on other members of society.

SECTION 19. 18-4-304, Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

18-4-304. Robbery of the elderly or disabled - legislative declaration. (1) A person who commits robbery of a person of advanced age or a ~~handicapped~~ person WITH A DISABILITY is guilty of robbery of the elderly or ~~handicapped~~ OF PERSONS WITH DISABILITIES.

(2) For the purpose of this section, "person of advanced age" means a person age sixty or older. "~~Handicapped person~~" "PERSON WITH A DISABILITY" means a person who is disabled because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision in both eyes to such a degree as to constitute virtual blindness.

(3) Robbery of the elderly or ~~handicapped~~ OF PERSONS WITH DISABILITIES is a class 3 felony.

(4) If the offender is convicted of robbery of the elderly or ~~handicapped~~ OF PERSONS WITH DISABILITIES, the court shall impose at least the presumptive sentence under section 18-1-105 (1). If the person of advanced age or the ~~handicapped~~ person WITH A DISABILITY robbed has sustained monetary damages, the court may order the offender to provide restitution pursuant to section 16-11-204.5 and article 28 of title 17, C.R.S. If, after a reasonable period not to exceed one hundred eighty days, the offender has not initiated restitution, the offender's probation shall be revoked.

(5) The general assembly recognizes that fear of crime is one of the major personal concerns of elderly PERSONS and ~~handicapped~~ persons WITH DISABILITIES and that elderly PERSONS and ~~handicapped~~ persons WITH DISABILITIES are more vulnerable to and disproportionately damaged by crime because they are less able to escape offenders and are more likely to receive serious injury. The elderly and ~~handicapped~~ PERSONS WITH DISABILITIES are particularly impacted by crimes of robbery because they tend to suffer the greatest relative deprivation - financially, physically, and psychologically - as a result of the crimes against them. Elderly persons and ~~the handicapped~~ PERSONS WITH DISABILITIES are seldom as physically or emotionally equipped to protect themselves or aid in their own security as are their younger counterparts in society. At the same time, they are far more susceptible than other age groups to the adverse long-term effects of robbery. The loss of money and material goods through strong arm robbery (by physical force) represents a substantial financial impact upon most elderly VICTIMS and ~~handicapped~~ victims WITH DISABILITIES. The general assembly therefore finds that the penalty for the crime of robbery against an elderly PERSON or ~~handicapped~~ A person WITH A DISABILITY should be more severe than the penalty for robbery of other members of society.

SECTION 20. 18-4-401 (7), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-4-401. Theft. (7) (a) The general assembly recognizes that fear of crime is

one of the major personal concerns of elderly persons or ~~handicapped~~ persons WITH DISABILITIES and that elderly persons or ~~handicapped~~ persons WITH DISABILITIES are more vulnerable to and disproportionately damaged by crime. The elderly or ~~the handicapped~~ PERSONS WITH DISABILITIES are particularly impacted by the crime of theft because they tend to suffer the greatest relative deprivation - financially and psychologically - as a result of the crimes against them. Elderly persons or ~~handicapped~~ persons WITH DISABILITIES are seldom as physically or emotionally equipped to protect themselves or aid in their own security as are their younger or more physically able counterparts in society. At the same time, they are far more susceptible than other groups to the adverse long-term effects of theft. The loss of money and material goods through theft represents a substantial financial impact upon most elderly victims or ~~handicapped~~ victims WITH DISABILITIES. The general assembly therefore finds that the penalty for the crime of theft from an elderly PERSON or ~~handicapped~~ A person WITH A DISABILITY should be more severe than the penalty for theft from other members of society. A person commits theft from the elderly or ~~the handicapped~~ FROM PERSONS WITH DISABILITIES when such person commits theft under subsection (1) of this section and the victim is a person who is sixty years of age or older or disabled because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision of both eyes to such a degree as to constitute virtual blindness and the defendant commits any element or portion of the offense in the presence of the victim. Theft from the elderly or ~~the handicapped~~ OF PERSONS WITH DISABILITIES is a class 5 felony if the value of the thing involved is less than four hundred dollars or a class 3 felony if the value of the thing involved is four hundred dollars or more. Theft from the person of the elderly or ~~the handicapped~~ OF PERSONS WITH DISABILITIES by means other than the use of force, threat, or intimidation is a class 4 felony without regard to the value of the thing taken.

(b) If the person is convicted of theft from the elderly or ~~the handicapped~~ FROM PERSONS WITH DISABILITIES, the court may order the offender to provide restitution pursuant to section 16-11-204.5 and article 28 of title 17, C.R.S. If, after a reasonable period not to exceed one hundred eighty days, the offender has not initiated restitution, the offender's probation shall be revoked.

SECTION 21. 18-6.5-102 (3) (a) and (3) (f), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

18-6.5-102. Definitions. As used in this article, unless the context otherwise requires:

(3) A "person with a disability" means any person who:

(a) Is ~~handicapped~~ IMPAIRED because of the loss of or permanent loss of use of a hand or foot or because of blindness or the permanent impairment of vision of both eyes to such a degree as to constitute virtual blindness; or

(f) Is mentally impaired as the term is defined in ~~section 24-34-301 (4) (b) (III);~~ C.R.S. SECTION 24-34-301 (2.5) (b) (III), C.R.S.; or

SECTION 22. 18-13-107 (3), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

18-13-107. Interference with persons with disabilities.

(3) No person shall beat, harass, intimidate, entice, distract, or otherwise interfere with any dog on a blaze orange leash or accompanying a person carrying a white or white tipped with red or metallic colored cane or walking stick, or any dog accompanying a person when such dog is being controlled by or wearing a harness normally used for dogs accompanying or leading ~~handicapped~~ persons WITH DISABILITIES.

SECTION 23. 19-3-103 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-103. Child not neglected - when. (1) No child who in lieu of medical treatment is under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing shall, for that reason alone, be considered to have been neglected or dependent within the purview of this article. However, the religious rights of a parent, guardian, or legal custodian shall not limit the access of a child to medical care in a life-threatening situation or when the condition will result in serious ~~handicap~~ or disability. In order to make a determination as to whether the child is in a life-threatening situation or that the child's condition will result in serious ~~handicap~~ or disability, the court may, as provided under section 19-1-104 (3), order a medical evaluation of the child. If the court determines, on the basis of any relevant evidence before the court, including the medical evaluation ordered pursuant to this section, that the child is in a life-threatening situation or that the child's condition will result in serious ~~handicap~~ or disability, the court may, as provided under section 19-1-104 (3), order that medical treatment be provided for the child. A child whose parent, guardian, or legal custodian inhibits or interferes with the provision of medical treatment in accordance with a court order shall be considered to have been neglected or dependent for the purposes of this article and injured or endangered for the purposes of section 18-6-401, C.R.S.

SECTION 24. 19-3-701 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-3-701. Petition for review of need for placement. (1) Whenever it appears necessary that the placement of a child out of the home will be for longer than ninety days, which placement is voluntary and not court-ordered and which placement involves the direct expenditure of funds appropriated by the Colorado general assembly to the departments of social services or institutions, a petition for review of need for placement shall be filed by the department or agency with which the child has been placed before the expiration of ninety days in such placement. A decree providing for voluntary placement of a child with an agency in which public moneys are expended shall be renewable in circumstances where there is documentation that the child has an emotional, physical, or intellectual ~~handicap~~ DISABILITY which necessitates care and treatment of a longer duration than ninety days as provided pursuant to this subsection (1). The court shall not transfer or require relinquishment of legal custody of or otherwise terminate the parental rights with respect to a child with such an emotional, physical, or intellectual ~~handicap~~ DISABILITY who was voluntarily placed out of the home for the purposes of obtaining special treatment or care solely because the parent or legal guardian is unable to provide the treatment or care. Whenever a child fifteen years of age or older is consenting to placement in a

mental health facility pursuant to section 27-10-103, C.R.S., the review under section 27-10-103 (3.3), C.R.S., shall be conducted in lieu of and shall fulfill the requirements for review under this subsection (1).

SECTION 25. 19-4-116 (8), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-4-116. Judgment or order. (8) The court may order support to be continued after the child is twenty-one years of age if the child is unable to care for himself OR HERSELF by reason of mental or physical ~~handicap~~ DISABILITY or other reason justifiable in the opinion of the court.

SECTION 26. 19-5-211 (1.5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-5-211. Legal effects of final decree. (1.5) An employer who permits paternity or maternity time off for biological parents following the birth of a child shall, upon request, make such time off available for individuals adopting a child. If the employer has established a policy providing time off for biological parents, that period of time shall be the minimum period of leave available for adoptive parents. Requests for additional leave due to the adoption of an ill CHILD or ~~handicapped~~ A child WITH A DISABILITY shall be considered on the same basis as comparable cases of such complications accompanying the birth of such a child to an employee or employee's spouse. Any other benefits provided by the employer, such as job guarantee or pay, shall be available to both adoptive and biological parents on an equal basis. An employer shall not penalize an employee for exercising the rights provided by this subsection (1.5). The provisions of this subsection (1.5) shall not apply to an adoption by the spouse of a custodial parent.

SECTION 27. 22-2-107 (1) (p) and (1) (q), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

22-2-107. State board - powers. (1) The state board has the power:

(p) To maintain a list of facilities which it has approved to receive reimbursement for the provision of educational services to ~~handicapped~~ children WITH DISABILITIES placed outside of their districts of residence but within Colorado;

(q) To promulgate rules and regulations to define the types and amounts of costs in excess of applicable revenues that a school district of residence of a ~~handicapped~~ child WITH A DISABILITY shall pay as tuition to educate that child elsewhere within Colorado at a facility, as defined by the department in its regulations, approved by the state board pursuant to paragraph (p) of this subsection (1), or at an administrative unit as defined in section 22-20-103 (1) other than the administrative unit of residence; however, a school district may pay a higher amount, as provided in section 22-20-109 (1).

SECTION 28. 22-20-102, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-20-102. Legislative declaration. The general assembly, recognizing the

obligation of the state of Colorado to provide educational opportunities to all children which will enable them to lead fulfilling and productive lives, declares that the purpose of this article is to provide means for educating those children who are exceptional. To this end, it is necessary to establish a continuum of services which recognizes the capabilities of all state agencies, including special classes in public schools and the establishment of special schools, programs for ~~handicapped~~ children WITH DISABILITIES who are confined to their homes or hospitals, and instruction in institutions of the state for exceptional children. The final determination for the placement in a special education program of any eligible exceptional child shall be made by the board of education of the school district of the child's residence, subject to the provisions of this article. It is the intent of the general assembly, in keeping with accepted educational principles, that ~~handicapped~~ children WITH DISABILITIES shall be educated in the least restrictive environment. To this end, the services of special education personnel shall be utilized within the regular school programs to the maximum extent permitted by good educational practices, both in rendering services directly to children and in providing consultative services to regular classroom teachers. It is further the intent of this article to assure that there is a coordination of all services available to ~~handicapped~~ children WITH DISABILITIES and to promote the entering into agreements or contracts between school districts and other public agencies and nonprofit organizations and residential child care facilities for the provision of appropriate services for ~~handicapped~~ children WITH DISABILITIES. Also, nothing in this article shall be construed to affect the placement of children out of the home or alternatives to such placements as provided in section 19-1-116, C.R.S.

SECTION 29. 22-20-102.5, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-20-102.5. Legislative declaration - identification of gifted children. The general assembly hereby finds and declares that traditional assessment methods currently used do not adequately identify some gifted children, including those who are economically and culturally disadvantaged and those ~~who are handicapped~~ WITH DISABILITIES; and that the state board, the department, and every administrative unit are encouraged to give the highest priority to the identification of such gifted children and to the development of educational programs which include such gifted children.

SECTION 30. 22-20-103 (3), (3.4), (4), and (5.5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 22-20-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-20-103. Definitions. As used in this article, unless the context otherwise requires:

(1.5) "CHILDREN WITH DISABILITIES" MEANS THOSE PERSONS BETWEEN THE AGES OF FIVE AND TWENTY-ONE AND, ON AND AFTER JANUARY 1, 1992, BETWEEN THE AGES OF THREE AND TWENTY-ONE WHO BY REASON OF ONE OR MORE OF THE FOLLOWING CONDITIONS ARE UNABLE TO RECEIVE REASONABLE BENEFIT FROM ORDINARY EDUCATION: LONG-TERM PHYSICAL IMPAIRMENT OR ILLNESS; SIGNIFICANT LIMITED INTELLECTUAL CAPACITY; SIGNIFICANT IDENTIFIABLE EMOTIONAL DISORDER OR IDENTIFIABLE PERCEPTUAL OR COMMUNICATIVE DISORDERS; OR SPEECH DISORDERS. "CHILDREN WITH DISABILITIES" ALSO MEANS THOSE PERSONS BETWEEN THE AGES OF FIVE AND TWENTY-ONE AND, ON AND AFTER JANUARY 1, 1992, BETWEEN THE AGES

OF THREE AND TWENTY-ONE WHOSE PRESENCE IN THE ORDINARY EDUCATIONAL PROGRAM IS DETRIMENTAL TO THE EDUCATION OF OTHERS AND WHO MUST THEREFORE RECEIVE MODIFIED OR SUPPLEMENTARY ASSISTANCE AND SERVICES IN ORDER TO FUNCTION AND LEARN.

(3) "Equipment" means that equipment used especially for the instruction or assessment of ~~handicapped~~ children WITH DISABILITIES which is approved by the state board. The state board shall publish a list of the types of approved equipment.

(3.4) "Exceptional children" means those children defined in ~~subsection (4)~~ SUBSECTION (1.5) of this section as ~~handicapped~~ children WITH DISABILITIES and those children defined in subsection (3.7) of this section as gifted children. An administrative unit shall serve every ~~handicapped~~ child WITH A DISABILITY but may provide voluntary programs for the gifted. An administrative unit may make special educational programs and services available to ~~handicapped~~ children WITH DISABILITIES under age five and, on and after January 1, 1992, under age three and gifted children under age five who would otherwise qualify as exceptional children under this subsection (3.4), and such persons enrolled in special educational programs or receiving special educational services shall be deemed to be "exceptional children" for all purposes of this article. The state board shall develop guidelines for the identification of exceptional children who may become eligible for special educational services under the provisions of this article.

~~(4) "Handicapped children" means those persons between the ages of five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one who by reason of one or more of the following conditions are unable to receive reasonable benefit from ordinary education: Long-term physical impairment or illness; significant limited intellectual capacity; significant identifiable emotional disorder or identifiable perceptual or communicative disorders; or speech disorders. "Handicapped children" also means those persons between the ages of five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one whose presence in the ordinary educational program is detrimental to the education of others and who must therefore receive modified or supplementary assistance and services in order to function and learn.~~

(5.5) "Least restrictive environment" means programs used to educate a ~~handicapped~~ child WITH A DISABILITY using the delivery system most appropriately meeting the needs of the child, and, to the extent possible, as determined by the local board of education, subject to the appeals procedures outlined in section 22-20-108 (3), the term means an environment in which a ~~handicapped~~ child WITH A DISABILITY is educated with children who are not ~~handicapped~~ WITHOUT DISABILITIES, unless the nature or severity of the ~~handicap~~ DISABILITY is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

SECTION 31. 22-20-104 (1), (2) (a), (3), (5), and (6), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

22-20-104. Administration. (1) This article shall be administered by the department. Administration of this article shall include the recommendation to the state board of reasonable criteria, rules, and regulations; recommended minimum standards for facilities, materials, equipment, and personnel; and recommended

assessment criteria for identifying exceptional children, their level of ~~handicap~~ DISABILITY or exception, and the special services needed. The state board shall adopt appropriate recommendations following public hearings in several locations throughout the state with respect to the suggested criteria, rules, regulations, and standards. Recommendations adopted by the state board shall be in accord with the legislative declaration set forth in section 22-20-102. Any school district which provides plans, programs, or services which do not reasonably satisfy the criteria, rules, regulations, and standards recommended by the state board will be provided by the department of education with a detailed analysis of any discrepancies noted along with specific recommendations for their correction. Funding will be provided or continued for a reasonable period of time, as determined by the department, to allow the local district opportunity to satisfy the recommended criteria, rules, regulations, and standards, or to establish a claim for variance based upon conditions indigenous to a local district.

(2) (a) In order to assist the state board in the performance of its responsibilities for the implementation of this article, a state special education advisory committee of an appropriate size shall be appointed by the state board. The members of the advisory committee shall include at least one special education teacher from each of the ~~handicapped conditions~~ DISABILITIES set forth in ~~section 22-20-103 (4)~~ SECTION 22-20-103 (1.5), at least two administrators with experience in special education, at least two parents of children presently or formerly enrolled in special education programs, one representative from the department of institutions, at least one ~~handicapped~~ adult WITH A DISABILITY eighteen years of age or older, at least one faculty member from the Colorado school for the deaf and the blind or a parent of a student attending the Colorado school for the deaf and the blind, and at least one regular classroom teacher. Members shall be appointed for one-year or two-year terms. Any additions to the composition of the advisory committee shall be made pursuant to the rules and regulations of the state board.

(3) The department shall submit to the governor and the education committees and the joint budget committee of the general assembly an annual report of the type and number of ~~handicapped~~ children WITH DISABILITIES served and not served, what educational services are provided to them, and the total costs incurred for the services, whether state-funded or federally, locally, or privately funded. The report shall include a measurable qualitative evaluation of the educational services rendered. The audit performed by the school district shall certify the number of pupils enrolled in special education programs and the numbers and salaries of reimbursable personnel.

(5) This article will be administered so that the total number of ~~handicapped~~ children WITH DISABILITIES of all ages in programs to be funded by this article shall not exceed eleven percent of the total number of children in Colorado ages five through seventeen and, on and after January 1, 1992, shall not exceed eleven percent of the total number of children in Colorado ages three through seventeen.

(6) The state board of education shall be responsible for developing such priorities and standards as may be required for apportioning the number of ~~handicapped~~ children WITH DISABILITIES in programs to be funded by this article to administrative units and for assuring that those children whose ~~handicap~~ DISABILITY is the most severe are served.

SECTION 32. 22-20-105, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-20-105. Depository and retrieval network for visually and hearing impaired children. The department will maintain a production, inventory, and depository system for those textbooks, equipment, and instructional and resource materials used in the education of visually and hearing ~~handicapped~~ IMPAIRED children or in the in-service training of professional personnel. The services of said system shall be available to those administrative units which find it more economical to employ materials from a central depository than to maintain their own.

SECTION 33. 22-20-106 (2), (3), (6), (7), and (9), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

22-20-106. Special educational programs. (2) Each administrative unit shall submit a plan to the department indicating how the school district will provide for education of all ~~handicapped~~ children WITH DISABILITIES between the ages of five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one. Each unit plan shall include the type and number of ~~handicapped~~ children WITH DISABILITIES in the unit based upon the department's criteria of incidence, the services to be provided, and the estimated resources necessary. An addendum to the administrative unit's plan to cover gifted children may be submitted by January 1, 1980.

(3) Administrative units shall make available special educational services for the education of any ~~handicapped~~ child WITH A DISABILITY between the ages of five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one under jurisdiction of the administrative unit and may serve gifted students. Special education services may be provided by community centers for the mentally retarded and ~~the seriously handicapped~~ PERSONS WITH SERIOUS DISABILITIES in cooperation with administrative units and school districts.

(6) By July 1, 1977, and thereafter, each administrative unit shall employ a sufficient number of school psychologists, school registered nurses, school social workers, and other personnel certified by the department, pursuant to article 60 of this title, or contract for department-approved services with department-approved agencies to adequately carry out those functions that provide for case finding and assessment of children who may be ~~handicapped~~ HAVE DISABILITIES, staffing of the special committee as provided in section 22-20-108, teacher and parent counseling and consultation, in-service education for school staff and volunteers, and necessary supporting services approved by the department. The department shall require administrative units to submit such a contract for services to the department for review and approval before such contract qualifies for reimbursements pursuant to section 22-20-114 (1) (b) (VII). In the case of school registered nurses, such persons as were registered nurses prior to July 1, 1978, and were employed as school registered nurses prior to July 1, 1978, need not be certified by the department pursuant to article 60 of this title in order to qualify for employment under this section. Such persons need not be so certified in order for the administrative unit by which they are employed to receive reimbursement under section 22-20-114. The provision relating to school registered nurses employed prior to July 1, 1978, applies only during continuous employment of the school registered nurse who is not so

certified.

(7) Any administrative unit planning to utilize federal funds from any source for the education of ~~handicapped~~ children WITH DISABILITIES as provided in this article shall obtain prior approval from the department for the use of such funds. The use of such funds in the administrative unit shall be in accordance with rules and regulations as established by the department, which are not in conflict with federal law or regulations.

(9) Behavior disordered pupils shall receive appropriate individualized services as part of their regular educational programs unless a ~~handicapping condition~~ DISABILITY exists as defined under this article. It is the intent of the general assembly that there be no additional out-of-home placement of behavior disordered pupils except after a unanimous determination by an evaluation team that out-of-home placement is the only practicable alternative.

SECTION 34. 22-20-107, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-20-107. Authority to contract with institutions of higher education or community centered boards. (1) An administrative unit may contract with an institution of higher education, or a community centered board, as provided in section 27-10.5-104, C.R.S., for the provision by the administrative unit of an education and training program for ~~handicapped~~ children WITH DISABILITIES. If such agreement is arrived at by the two agencies, the administrative unit shall place the responsibility for administering the program with the director of special education.

(2) The two agencies shall agree to an amount per child that the institution of higher education or community centered board shall pay to the administrative unit for providing such services. No school district providing an education and training program for ~~handicapped~~ children WITH DISABILITIES under contract with an institution of higher education or a community centered board shall count the resources necessary to serve such children under section 22-20-114. The institution of higher education or community centered board shall pay to the administrative unit providing the program an amount per child as agreed upon by the institution or board and the administrative unit, but such amount shall not be less than the amount per child provided to the institution or board by the department of institutions for educational purposes pursuant to section 27-10.5-104 (7), C.R.S. Any school district providing an education and training program for ~~handicapped~~ children WITH DISABILITIES domiciled in that district shall not be required to provide to an institution of higher education or a community centered board the amount required by section 27-10.5-104 (7), C.R.S., on behalf of those children; but each such school district shall expend out of its own funds at least the amount required by the said section 27-10.5-104 (7), C.R.S., in providing the program.

SECTION 35. 22-20-107.5, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

22-20-107.5. District of residence of disabled child - jurisdiction. Notwithstanding the provisions of section 22-1-102 (2), for the purposes of this article the district of residence of a ~~handicapped~~ child WITH A DISABILITY is the school

district in which such child lives on a day-to-day basis; except that, if a ~~handicapped~~ child WITH A DISABILITY is homeless, as defined by section 22-1-102.5, the provisions of section 22-1-102 (2) (h) shall apply, and except that, when a child is living at one of the regional centers including satellite homes of such centers operated by the department of institutions, the Colorado mental health institute at Pueblo or Fort Logan, a group care facility or home, or the school for the deaf and the blind, such child shall be deemed to reside where the parent or guardian of such child resides; except that, when a child lives in such facility and the district of residence cannot be determined due to the inability to locate a parent or guardian, the child shall be considered a resident of the school district in which such facility is located. If there is a dispute as to which school district constitutes the district of residence, the commissioner of education shall have the authority to determine questions of residency and thus jurisdiction after reviewing necessary details involved in the determination of residency.

SECTION 36. 22-20-108 (1), (3) (a), (4), (5), and (7) (b), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

22-20-108. Determination of disability - enrollment. (1) The determination that a child is ~~handicapped~~ HAS A DISABILITY and the recommendation for placement of that child in a special educational program shall be made by a committee of professionally qualified personnel designated by the board of education of the school district or by the governing board of the board of cooperative services if the administrative unit encompasses more than a single school district. The composition of the committee shall be prescribed by the state board and may be composed of but not limited to the following: The director of special education for the administrative unit, a psychologist, a social worker, a physician, a school administrator, and a teacher of ~~the handicapped~~ CHILDREN WITH DISABILITIES. In the event that placement in a community center for the retarded and ~~seriously handicapped~~ FOR PERSONS WITH SERIOUS DISABILITIES is considered appropriate for the needs of a ~~handicapped~~ child WITH A DISABILITY, a joint placement committee composed of professional personnel, as described in this section, representing the administrative unit and the community center for the retarded and ~~seriously handicapped~~ FOR PERSONS WITH SERIOUS DISABILITIES, may recommend placement in such center. The committee shall give parents of ~~an allegedly handicapped~~ A child WITH AN ALLEGED DISABILITY an opportunity to consult with the committee or representative thereof prior to determination that their child is ~~handicapped~~ HAS A DISABILITY.

(3) (a) In the event of an appeal of the determination of ~~handicap~~ THE DISABILITY or of the placement of a child in an educational program pursuant to subsection (1) of this section, or an appeal of the program to be offered, the local school district shall first appoint an administrative law judge to make findings of fact and a recommendation concerning the matter at issue. The findings of fact and recommendation shall be delivered to the local board of education.

(4) Each child determined to be ~~handicapped~~ HAVE A DISABILITY by the committee pursuant to subsection (1) of this section shall be provided with an individual educational program which shall be developed in accordance with requirements established by the state board of education and shall be reviewed annually. When a ~~handicapped~~ child WITH A DISABILITY is to be placed outside of the district of residence, the receiving agency, institution, or school district providing the services

shall cooperate in the development of the individual education program. The individual education program shall be coordinated with all individual plans required by other federal or state programs in order to provide for maximum coordination of service to the ~~handicapped~~ child WITH A DISABILITY, which may include the provision of appropriate services for the ~~handicapped~~ child WITH A DISABILITY, by agreement or contract with public agencies or nonprofit organizations or residential child care facilities. For children placed without the prior written approval of the school district of residence, the individual education program shall be the responsibility of the facility providing the educational program.

(5) In formulating recommendations for placement of a ~~handicapped~~ child WITH A DISABILITY, the committee shall work cooperatively with the department of institutions, when applicable, and shall be guided by the legislative declaration contained in section 22-20-102.

(7) (b) The agency responsible for out-of-home placement of a ~~handicapped~~ child WITH A DISABILITY, prior to the placement of such child, shall work cooperatively with the administrative unit of attendance in which the agency wishes to place the child to ensure that the appropriate educational and residential services are available. In no event shall a child be placed in an administrative unit which is unable to ensure the provision of educational and residential services which are appropriate for said child. The costs of educating such children shall be the responsibility of the school district of residence, and such school district shall pay to the administrative unit of attendance the tuition cost approved by the state board pursuant to section 22-20-109.

SECTION 37. 22-20-109 (1) and (2), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

22-20-109. Tuition. (1) Upon approval by the department, an administrative unit of residence may contract with another administrative unit, with a community centered board, or with a facility, as defined by the department in its regulations, approved by the state board pursuant to section 22-2-107 (1) (p) to provide a special education program for a ~~handicapped~~ child WITH A DISABILITY. In such an instance, the administrative unit of attendance, the community centered board, or the facility where the child receives a special education program shall document to the department a list of costs of providing such special education program, and the applicable revenues. Notwithstanding any provision of section 22-32-115 to the contrary, the tuition charge for educating a ~~handicapped~~ child WITH A DISABILITY shall be established by the department and approved by the state board. Such tuition charge shall be the maximum amount the school district of residence shall be obligated to pay for the special educational program; except that the school district of residence may pay a higher tuition charge than the charge established and approved pursuant to this subsection (1) for students in need of specialized services, which services were included in the individual education plan but which were not included in the tuition charge established pursuant to this subsection (1).

(2) The state board shall promulgate rules and regulations to define the contract approval process, the types and amounts of costs in excess of the state average per pupil operating revenues, as defined in section 22-53-103 (8), or the per pupil operating revenues of the district of residence, as defined in section 22-53-103 (6), whichever is appropriate, as determined by the department pursuant to its regulations,

and to define other applicable revenues that a school district of residence of a ~~handicapped~~ child WITH A DISABILITY shall pay as tuition to educate that child elsewhere at an administrative unit, or at a facility approved by the state board pursuant to section 22-2-107 (1) (p). These rules and regulations shall include, but shall not be limited to, the limitations on the number of staff members per number of students, the amount of equipment necessary for classroom instruction of the child, the number of days of school, and any other expenses involved in the provision of educational services as determined by the child's individualized education program. The school district of residence shall be responsible for paying as tuition any excess costs above the applicable per pupil operating revenues as determined by the department pursuant to its regulations to provide these services.

SECTION 38. 22-20-111, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-20-111. Equipment. An administrative unit may purchase and be reimbursed for equipment for the instruction or assessment of ~~handicapped~~ children WITH DISABILITIES. To be eligible for reimbursement, the administrative unit shall maintain a special education instructional materials center and may employ a special education instructional materials specialist. A qualifying center may be operated as a part of an existing instructional materials center, but such portion shall be specifically accounted for.

SECTION 39. 22-20-114 (1) (b) (V), (1) (d), (3) (c), and (5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

22-20-114. Reimbursable costs of programs. (1) An administrative unit which maintains and operates special educational programs approved by the department for the education of exceptional children, except as provided in paragraph (c) of subsection (3) of this section, shall be entitled to reimbursement for:

(b) Eighty percent of the costs of:

(V) For each child so accepted, the average cost per pupil of educating children with similar ~~handicaps~~ DISABILITIES in any unit which accepts a child from another administrative unit in one or more of its special education programs, in any group care facility or home, as defined by the department in its regulations and as approved by the state board pursuant to section 22-2-107 (1) (p), which accepts a child from an administrative unit in one or more of its special education programs, or in any community centered board, as provided for in section 27-10.5-104, C.R.S., and as approved by the state board pursuant to section 22-2-107 (1) (p), which accepts a child from an administrative unit in one or more of its special education programs, such reimbursement to be made to the administrative unit of the child's residence. State reimbursement under this subparagraph (V) shall be based upon the amount of the tuition charge under the provisions of section 22-20-109 in excess of the district of residence's per pupil operating revenues, as defined in section 22-53-103 (6); except that, for a group care facility or home or for a community centered board, reimbursement shall be based on the amount of the tuition charge under the provisions of section 22-20-109 in excess of the state average per pupil operating revenues, as defined in section 22-53-103 (8).

(d) Eighty percent of the expenses of any individual item of equipment which exceeds five hundred dollars and is used exclusively for the instruction or assessment of ~~handicapped~~ children WITH DISABILITIES;

(3) (c) Funding for the gifted shall be for teachers of special classes, teachers of special resource rooms, teachers of special itinerant programs, and for educational equipment and materials. Funding for gifted programs shall supplement, not supplant, programs for ~~the handicapped~~ STUDENTS WITH DISABILITIES.

(5) Reimbursements to any administrative unit under the provisions of this article shall in no instance exceed one hundred percent of the direct costs of providing special education services, after deduction of any other state funds and any local, private, and federal funds received for special education purposes, including the amounts specified in subsection (6) of this section. On and after January 1, 1992, a separate calculation shall be made for the provision of services to three- and four-year-old ~~handicapped~~ children WITH DISABILITIES and the maximum reimbursement shall be determined after deduction of other state funds available for the education of such children, including funds received for such children pursuant to the "Public School Finance Act of 1988", article 53 of this title, and all other local, private, and federal funds received for the education of such children. This provision does not affect the calculation of tuition or excess costs.

SECTION 40. 22-20-115, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-20-115. Study - report to general assembly. A study shall be supervised by the department, within existing revenues, regarding all out-of-home placed ~~handicapped~~ children WITH DISABILITIES. The department shall report to the general assembly by January 1, 1988, on the results of this study and their recommendations for the financing of ~~handicapped~~ education programs FOR CHILDREN WITH DISABILITIES.

SECTION 41. 22-32-115 (5), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-32-115. Tuition for resident school-age children. (5) The tuition limitations prescribed by subsection (2) (a) of this section shall not be applicable to the amount of tuition which may be charged by a district of attendance to a nonresident parent or guardian for attendance of his OR HER child at a school outside ~~his~~ THE PARENT OR GUARDIAN'S district of residence contrary to a determination of the board of education of his OR HER district of residence made pursuant to subsection (1) of this section; nor shall such tuition limitation be applicable to the amount of tuition which a district of attendance may charge for a nonresident educable ~~mentally or physically handicapped~~ child WITH A DISABILITY.

SECTION 42. 22-32-122 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-32-122. Contract services, equipment, and supplies. (1) Any school district has the power to contract with another district or with the governing body of a state college or university, with the tribal corporation of any Indian tribe or nation, with

any federal agency or officer or any county, city, or city and county, or with any natural person, body corporate, or association for the performance of any service, activity, or undertaking which any school may be authorized by law to perform or undertake. Such contract shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial or otherwise, of the parties so contracting and shall provide that the service, activity, or undertaking be of comparable quality and meet the same requirements and standards as would be necessary if performed by the school district; but nothing in this subsection (1) shall apply to adult education programs or programs for the mentally retarded and for ~~the seriously handicapped~~ PERSONS WITH SERIOUS DISABILITIES. A contract executed pursuant to this section may include, among other things, the purchase (outright or by installment sale) or renting or leasing, with or without an option to purchase, of necessary building facilities, equipment, supplies, and employee services. Any state or federal financial assistance which shall accrue to a contracting school district, if said district were to perform such service, activity, or undertaking individually, shall, if the state board finds the service, activity, or undertaking is of comparable quality and meets the same requirements and standards as would be necessary if performed by a school district, be apportioned by the state board of education on the basis of the contractual obligations and paid separately to each contracting school district in the manner prescribed by law; such finding of comparable quality and of meeting the same requirements and standards shall not be required in the case of adult education programs or programs for the mentally retarded and for ~~the seriously handicapped~~ PERSONS WITH SERIOUS DISABILITIES.

SECTION 43. 22-44-103.5 (1) and (2) (a), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

22-44-103.5. Budget for 1992 transitional fiscal year. (1) In order to implement the change in the school district fiscal year on July 1, 1992, the six-month period beginning on January 1, 1992, and ending on June 30, 1992, shall be the 1992 transitional fiscal year. The board of education of each school district shall adopt a budget and an appropriation resolution for such transitional fiscal year in the manner provided by this part 1; except that the total amount that may be budgeted and appropriated from revenues in the general fund generated pursuant to the "Public School Finance Act of 1988", article 53 of this title, for expenditure during such transitional fiscal year shall not exceed the equalization program funding of such district as determined pursuant to section 22-53-107 (5), the preschool program funding as determined pursuant to section 22-53-115.5 (1.5), if any, and the PROGRAM FUNDING FOR three- and four-year-old ~~handicapped program funding~~ CHILDREN WITH DISABILITIES as determined pursuant to section 22-53-116.5 (2), if any.

(2) (a) Notwithstanding the provisions of section 39-1-112, C.R.S., revenues generated pursuant to the "Public School Finance Act of 1988" to fund the equalization program funding, the preschool program funding, and the PROGRAM FUNDING FOR three- and four-year-old ~~handicapped program funding~~ CHILDREN WITH DISABILITIES of the district for the transitional fiscal year and any additional funds generated pursuant to the provisions of section 22-53-114 (10) of said act, including property tax revenues collected during the 1992 calendar year which are in excess of the funding for such programs during such fiscal year, shall not be expended during such fiscal year but shall be carried forward in the general fund to the 1992-93 fiscal

year.

SECTION 44. 22-53-103 (7) (b), (7) (c), and (10), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 22-53-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-53-103. Definitions. As used in this part 1, unless the context otherwise requires:

(4.3) "ENROLLMENT OF THREE- AND FOUR-YEAR-OLD CHILDREN WITH DISABILITIES" MEANS THE NUMBER OF THREE- AND FOUR-YEAR-OLD CHILDREN WITH DISABILITIES RECEIVING SPECIAL EDUCATIONAL SERVICES UNDER THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE 20 OF THIS TITLE, WITH EACH CHILD RECEIVING SERVICES COUNTED AS ONE-HALF PUPIL.

(7) (b) A pupil enrolled in kindergarten class and a ~~handicapped~~ child WITH A DISABILITY receiving an educational program under the "Exceptional Children's Educational Act", article 20 of this title, who would be in kindergarten but for such ~~handicap~~ DISABILITY, shall be counted as one half-day pupil. A ~~handicapped~~ child WITH A DISABILITY receiving a full-day educational program under said act, who would be in a grade beyond kindergarten but for such ~~handicap~~ DISABILITY, shall be counted as a full-day pupil.

(c) Children determined to be ~~handicapped~~ HAVE DISABILITIES in accordance with section 22-20-108 and placed in a program outside of the district of residence shall be considered enrolled in the district of residence for the purposes of this subsection (7).

(10) ~~"Three- and four-year-old handicapped enrollment" means the number of three- and four-year-old handicapped children receiving special educational services under the "Exceptional Children's Educational Act", article 20 of this title, with each child receiving services counted as one-half pupil.~~

SECTION 45. 22-53-104 (4), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

22-53-104. Attendance in district other than district of residence. (4) For ~~handicapped~~ children WITH DISABILITIES residing in a particular school district but receiving an education in another school district, a state institution or facility, a residential child care facility, or an eligible nonprofit organization within Colorado, the state average per pupil operating revenues shall be the district of residence's total responsibility under this part 1 for the education of that child. The provisions of this subsection (4) shall not apply to ~~handicapped~~ children WITH DISABILITIES enrolled in an interdistrict participating school district pursuant to the provisions of article 36 of this title.

SECTION 46. 22-53-107 (6), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

22-53-107. Equalization program funding of a district. (6) For purposes of sections 22-53-114 (1), (2), (3), and (7), 22-53-121.5, and 22-53-122, "equalization

program funding" shall include preschool program funding as determined pursuant to section 22-53-115.5 and PROGRAM FUNDING FOR three- and four-year-old ~~handicapped program funding~~ CHILDREN WITH DISABILITIES as determined pursuant to section 22-53-116.5.

SECTION 47. The introductory portion to 22-53-114 (2) (b) and 22-53-114 (4) (a) and (4) (b) (II.5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

22-53-114. Local and state shares of equalization program funding.
(2) (b) For the 1988 and 1989 property tax years, the department of education shall determine and the state board shall certify the number of mills to be levied on the taxable property in each district in order to assure that the state's percentage share of the equalization program funding and the PROGRAM FUNDING FOR three- and four-year-old ~~handicapped program funding~~ CHILDREN WITH DISABILITIES of all districts in the state is as follows:

(4) (a) If the amount of property tax revenue which a district is entitled to receive from the levy required by subsections (1) and (2) of this section during the budget year, assuming one hundred percent collection, exceeds the equalization program funding of the district, such excess amount shall be used to replace, on a pro rata basis, any categorical program support funds which such district would otherwise be eligible to receive from the state. If the amount of property tax revenue exceeds the equalization program funding of the district and the total amount of categorical program support funds which the district would otherwise be eligible to receive from the state, the tax levy shall be reduced so that the property tax revenue received from such tax levy equals the total of said two amounts. For the purposes of this subsection (4), "categorical program support funds which the district would otherwise be eligible to receive from the state" means amounts which the district would have received from the state but which will be received instead from property tax revenues by reason of this section and includes funds pursuant to section 22-53-115.5 for a preschool program established pursuant to article 28 of this title, funds pursuant to section 22-53-116 due to increased enrollment, funds pursuant to section 22-53-116.5 for three- and four-year-old ~~handicapped~~ children WITH DISABILITIES, funds pursuant to the "Exceptional Children's Educational Act", article 20 of this title, funds pursuant to the "English Language Proficiency Act", article 24 of this title, transportation aid pursuant to article 51 of this title, and vocational education aid pursuant to article 8 of title 23, C.R.S. Funds received by an administrative unit under the "Exceptional Children's Educational Act", article 20 of this title, as reimbursement for services provided to children counted in the pupil enrollment of a district shall be considered as funds which a district would otherwise be eligible to receive for purposes of this subsection (4).

(b) The amount of categorical program support funds replaced by property tax revenue pursuant to the provisions of paragraph (a) of this subsection (4) shall be used to make payments of categorical program support funds to eligible districts and, in the event that the appropriations for categorical programs are less than the total categorical program support funds to which districts are entitled under applicable provisions of law, such funds shall be applied to categorical programs in the following order:

(II.5) Third, funds pursuant to section 22-53-116.5 for three- and four-year-old ~~handicapped~~ children WITH DISABILITIES;

SECTION 48. 22-53-115 (5) (c) (II), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

22-53-115. Phase-in of equalization program funding and uniform mill levy. (5) (c) (II) A district's pupil enrollment shall not include the district's ENROLLMENT OF three- and four-year-old ~~handicapped enrollment~~ CHILDREN WITH DISABILITIES.

SECTION 49. 22-53-116 (5) (b), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

22-53-116. Additional aid to districts with increased enrollment during the budget year. (5) (b) A district's pupil enrollment or funded pupil count shall not include the district's ENROLLMENT OF three- and four-year-old ~~handicapped enrollment~~ CHILDREN WITH DISABILITIES.

SECTION 50. The introductory portion to 22-53-116.5 (1) and 22-53-116.5 (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

22-53-116.5. Program funding for districts with programs for three- and four-year-old children with disabilities. (1) For the 1991 budget year and budget years thereafter, any school district providing special educational services to three- and four-year-old ~~handicapped~~ children WITH DISABILITIES pursuant to the "Exceptional Children's Educational Act", article 20 of this title, shall be entitled to PROGRAM FUNDING FOR three- and four-year-old ~~handicapped program funding~~ CHILDREN WITH DISABILITIES in an amount equal to its ENROLLMENT FOR three- and four-year-old ~~handicapped enrollment~~ CHILDREN WITH DISABILITIES multiplied by the sum of the following:

(2) Notwithstanding the provisions of subsection (1) of this section, for the 1992 transitional budget year only, the PROGRAM FUNDING FOR three- and four-year-old ~~handicapped program funding~~ CHILDREN WITH DISABILITIES of a district shall be fifty percent of the amount calculated pursuant to said subsection (1).

SECTION 51. 22-53-203 (1) (d), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

22-53-203. Educational achievement - powers and duties of state board. (1) The state board shall have the following powers and duties relating to educational achievement:

(d) To analyze whether the educational system addresses the diverse learning needs of various student populations, including but not limited to the gifted and ~~the~~ ~~handicapped~~ TO STUDENTS WITH DISABILITIES;

SECTION 52. 22-80-113 (1), (2), and (3), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

22-80-113. Educational training - expenditures. (1) The superintendent of the

Colorado school for the deaf and the blind is authorized to expend any moneys necessary, out of the appropriation for the support of the Colorado school for the deaf and the blind, to provide for the educational training of eligible deaf-blind students or students who have a multiple physical ~~handicap~~ DISABILITY of hearing, sight, and speech who are residents of the state of Colorado in institutions located outside of the state of Colorado which are equipped to provide for the educational training of such students or by the employment of a skilled person, as a home teacher, trained in the work of teaching deaf-blind students or students who have a multiple physical ~~handicap~~ DISABILITY of hearing, sight, and speech; except that the compensation of any such skilled person as a home teacher shall not be greater, in any one instance, than the expense of the education of any such deaf-blind pupil or pupil who has a multiple physical ~~handicap~~ DISABILITY of hearing, sight, and speech if resident in any named institution located outside of the state of Colorado.

(2) In each instance, the institution selected or the skilled person employed for the educational training of such deaf-blind student or student who has a multiple physical ~~handicap~~ DISABILITY of hearing, sight, and speech shall be approved by the commissioner of education.

(3) Such deaf-blind students or students who have a multiple physical ~~handicap~~ DISABILITY of hearing, sight, and speech who are unable to receive instruction in a special class in a public school may be provided an education in a special class at the Colorado school for the deaf and the blind if there are a sufficient number of such students to warrant the establishment of a class.

SECTION 53. 24-4.1-302 (1) (k) and (1) (w), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-4.1-302. Definitions. As used in this part 3, and for no other purpose, including the expansion of the rights of any defendant:

(1) "Crime" means any of the following acts or omissions in violation of the statutes of the state of Colorado:

(k) Assault on the elderly or ~~handicapped~~ ON PERSONS WITH DISABILITIES, in violation of section 18-3-209, C.R.S.;

(w) Robbery of the elderly or ~~handicapped~~ OF PERSONS WITH DISABILITIES, in violation of section 18-4-304, C.R.S.;

SECTION 54. 24-4.2-105 (4) (h), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-4.2-105. Allocation of moneys from fund - application for grants - disbursements. (4) The board is authorized to enter into contracts for the purchase and coordination of victims and witnesses assistance services with persons or agencies which the board deems appropriate. Victims and witnesses assistance services may be used for the following:

(h) Assistance to the elderly and ~~the handicapped~~ TO PERSONS WITH DISABILITIES in arranging transportation to and from court;

SECTION 55. 24-30-1201 (2) and (4), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

24-30-1201. Definitions. As used in this part 12, unless the context otherwise requires:

(2) "~~Nonprofit agency for the severely handicapped~~" "NONPROFIT AGENCY FOR PERSONS WITH SEVERE DISABILITIES" means a private nonprofit organization established under the laws of the United States or this state which is operated in the interest of individuals who are severely ~~handicapped~~ IMPAIRED, the net income of which does not inure in whole or in part to the benefit of any shareholder, officer, or other individual, and which, in the production of commodities and in the provision of services, employs during its fiscal year severely ~~handicapped~~ IMPAIRED individuals for not less than seventy-five percent of the man-hours of direct labor required for the production of commodities or for the provision of services.

(4) "~~Severely handicapped~~" "SEVERE DISABILITY" means ~~an individual or class of individuals with~~ one or more physical or mental disabilities which constitute a substantial ~~handicap~~ IMPAIRMENT to employment and which are of such a nature as to require multiple vocational rehabilitation services over an extended period of time.

SECTION 56. 24-30-1203 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-30-1203. Purchasing requirements. (1) In order to provide preferential treatment to the products and services of nonprofit agencies for ~~the severely handicapped~~ PERSONS WITH SEVERE DISABILITIES, public agencies shall purchase such products and services directly from said agencies in accordance with applicable specifications of the division of purchasing for state agencies and of local purchasing officials for other public agencies. Whenever such products and services are available at a price determined to be reasonable by the appropriate purchasing official, the price shall recover for the nonprofit agency for ~~the severely handicapped~~ PERSONS WITH SEVERE DISABILITIES the cost of all materials, labor, and overhead, including delivery expenses, incurred in the production of products or the provision of services by such nonprofit agency.

SECTION 57. 24-30-1303 (1) (v), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-30-1303. Department of administration - responsibilities. (1) The department shall:

(v) Enforce standards for ~~the handicapped~~ PERSONS WITH DISABILITIES, as provided in section 9-5-110, C.R.S.;

SECTION 58. 24-32-717 (4) (a), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-32-717. Home investment trust fund - short-term loans. (4) For the purposes of this section, unless the context otherwise requires, the following definitions shall apply:

(a) "Family" means two or more persons related by blood, marriage, or adoption who live or expect to live together as a single household in the same home, a single person who is either at least sixty-two years of age or ~~handicapped~~ HAS A DISABILITY, or a single person whom the board may by regulation determine to be eligible for assistance under this part 7.

SECTION 59. 24-34-301 (4), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended, and the said 24-34-301 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

24-34-301. Definitions. As used in parts 3 to 7 of this article, unless the context otherwise requires:

(2.5) (a) "DISABILITY" MEANS A PHYSICAL IMPAIRMENT WHICH SUBSTANTIALLY LIMITS ONE OR MORE OF A PERSON'S MAJOR LIFE ACTIVITIES AND INCLUDES A RECORD OF SUCH AN IMPAIRMENT AND BEING REGARDED AS HAVING SUCH AN IMPAIRMENT.

(b) (I) ON AND AFTER JULY 1, 1990, AS TO PART 5 OF THIS ARTICLE, "DISABILITY" SHALL ALSO INCLUDE SUCH A PERSON WHO HAS A MENTAL IMPAIRMENT, BUT SUCH TERM DOES NOT INCLUDE ANY PERSON CURRENTLY INVOLVED IN THE ILLEGAL USE OF OR ADDICTION TO A CONTROLLED SUBSTANCE.

(II) ON AND AFTER JULY 1, 1992, AS TO PARTS 4, 6, AND 7 OF THIS ARTICLE, "DISABILITY" SHALL ALSO INCLUDE SUCH A PERSON WHO HAS A MENTAL IMPAIRMENT.

(III) THE TERM "MENTAL IMPAIRMENT" AS USED IN SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH (b) SHALL MEAN ANY MENTAL OR PSYCHOLOGICAL DISORDER SUCH AS DEVELOPMENTAL DISABILITY, ORGANIC BRAIN SYNDROME, MENTAL ILLNESS, OR SPECIFIC LEARNING DISABILITIES.

(4) (a) ~~"Handicap" means a physical impairment which substantially limits one or more of a person's major life activities and includes a record of such an impairment and being regarded as having such an impairment.~~

~~(b) (I) On and after July 1, 1990, as to part 5 of this article, "handicap" shall also include such a person who has a mental impairment, but such term does not include any person currently involved in the illegal use of or addiction to a controlled substance.~~

~~(II) On and after July 1, 1992, as to parts 4, 6, and 7 of this article, "handicap" shall also include such a person who has a mental impairment.~~

~~(III) The term "mental impairment" as used in subparagraphs (I) and (II) of this paragraph (b) shall mean any mental or psychological disorder such as developmental disability, organic brain syndrome, mental illness, or specific learning disabilities.~~

~~(c) Prior to October 1, 1991, the commission shall file with the committee for sunrise and sunset review a report showing how many cases have been handled as a result of the inclusion of persons with a mental impairment within the definition of "handicap" in accordance with paragraph (b) (I) of this subsection (4). The committee for sunrise and sunset review shall consider such report and make a~~

~~recommendation to the general assembly for consideration during the 1992 regular session as to what revisions in the law are necessary for the commission's authority to enforce prohibitions against discrimination against persons who have a handicap which results from a mental impairment.~~

SECTION 60. 24-34-303, Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-34-303. Civil rights commission - membership. There is hereby created, within the division, the Colorado civil rights commission. The commission shall consist of seven members, who shall be appointed by the governor, with the consent of the senate, for terms of four years; except that, of the first members appointed, two shall be appointed for terms of two years and two shall be appointed for terms of three years. In making the first two appointments to the commission on or after July 1, 1981, whether such appointments are for a full term or to fill a vacancy, the governor shall appoint one member to represent the business community and one member to represent state or local government entities. In making the next two appointments to the commission, whether such appointments are for a full term or to fill a vacancy, the governor shall appoint one member to represent small business and one member to represent state or local government entities. The governor shall make all subsequent appointments in such a manner that there are at all times two members of the commission representing the business community, at least one of which shall be a representative of small business, two members of the commission representing state or local government entities, and three members of the commission from the community at large. The membership of the commission shall at all times be comprised of at least four members who are members of groups of people who have been or who might be discriminated against because of ~~handicap~~ DISABILITY, race, creed, color, sex, national origin, or ancestry as defined in section 24-34-402 or because of marital status, religion, or age. Appointments shall be made to provide geographical area representation insofar as may be practicable, and no more than four members shall belong to the same political party. Vacancies shall be filled by the governor by appointment, with the consent of the senate, and the term of a commissioner so appointed shall be for the unexpired part of the term for which ~~he~~ THE COMMISSIONER is appointed. Any commissioner may be removed from office by the governor for misconduct, incompetence, or neglect of duty. Commissioners shall receive a per diem allowance and shall be reimbursed for actual and necessary expenses incurred by them while on official commission business, as provided in section 24-34-102 (13). The commission may adopt, amend, or rescind rules for governing its meetings, and four commissioners shall constitute a quorum.

SECTION 61. 24-34-402 (1) (a), (1) (b), (1) (c), (1) (d), (1) (f), (2), and (3), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

24-34-402. Discriminatory or unfair employment practices. (1) It shall be a discriminatory or unfair employment practice:

(a) For an employer to refuse to hire, to discharge, to promote or demote, or to discriminate in matters of compensation against any person otherwise qualified because of ~~handicap~~ DISABILITY, race, creed, color, sex, age, national origin, or ancestry; but, with regard to a ~~handicap~~ DISABILITY, it is not a discriminatory or an unfair employment practice for an employer to act as provided in this paragraph (a)

if there is no reasonable accommodation that the employer can make with regard to the ~~handicap~~ DISABILITY, the ~~handicap~~ DISABILITY actually disqualifies the person from the job, and the ~~handicap~~ DISABILITY has a significant impact on the job;

(b) For an employment agency to refuse to list and properly classify for employment or to refer an individual for employment in a known available job for which such individual is otherwise qualified because of ~~handicap~~ DISABILITY, race, creed, color, sex, age, national origin, or ancestry or for an employment agency to comply with a request from an employer for referral of applicants for employment if the request indicates either directly or indirectly that the employer discriminates in employment on account of ~~handicap~~ DISABILITY, race, creed, color, sex, age, national origin, or ancestry; but, with regard to a ~~handicap~~ DISABILITY, it is not a discriminatory or an unfair employment practice for an employment agency to refuse to list and properly classify for employment or to refuse to refer an individual for employment in a known available job for which such individual is otherwise qualified if there is no reasonable accommodation that the employer can make with regard to the ~~handicap~~ DISABILITY, the ~~handicap~~ DISABILITY actually disqualifies the applicant from the job, and the ~~handicap~~ DISABILITY has a significant impact on the job;

(c) For a labor organization to exclude any individual otherwise qualified from full membership rights in such labor organization, or to expel any such individual from membership in such labor organization, or to otherwise discriminate against any of its members in the full enjoyment of work opportunity because of ~~handicap~~ DISABILITY, race, creed, color, sex, age, national origin, or ancestry;

(d) For any employer, employment agency, or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for employment or membership, or to make any inquiry in connection with prospective employment or membership which expresses, either directly or indirectly, any limitation, specification, or discrimination as to ~~handicap~~ DISABILITY, race, creed, color, sex, age, national origin, or ancestry or intent to make any such limitation, specification, or discrimination, unless based upon a bona fide occupational qualification or required by and given to an agency of government for security reasons;

(f) For any employer, labor organization, joint apprenticeship committee, or vocational school providing, coordinating, or controlling apprenticeship programs or providing, coordinating, or controlling on-the-job training programs or other instruction, training, or retraining programs:

(I) To deny to or withhold from any qualified person because of ~~handicap~~ DISABILITY, race, creed, color, sex, age, national origin, or ancestry the right to be admitted to or participate in an apprenticeship training program, an on-the-job training program, or any other occupational instruction, training, or retraining program; but, with regard to a ~~handicap~~ DISABILITY, it is not a discriminatory or an unfair employment practice to deny or withhold the right to be admitted to or participate in any such program if there is no reasonable accommodation that can be made with regard to the ~~handicap~~ DISABILITY, the ~~handicap~~ DISABILITY actually disqualifies the applicant from the program, and the ~~handicap~~ DISABILITY has a significant impact on participation in the program;

(II) To discriminate against any qualified person in pursuit of such programs or to discriminate against such a person in the terms, conditions, or privileges of such programs because of ~~handicap~~ DISABILITY, race, creed, color, sex, age, national origin, or ancestry;

(III) To print or circulate or cause to be printed or circulated any statement, advertisement, or publication, or to use any form of application for such programs, or to make any inquiry in connection with such programs which expresses, directly or indirectly, any limitation, specification, or discrimination as to ~~handicap~~ DISABILITY, race, creed, color, sex, age, national origin, or ancestry or any intent to make any such limitation, specification, or discrimination, unless based on a bona fide occupational qualification;

(2) Notwithstanding any provisions of this section to the contrary, it is not a discriminatory or an unfair employment practice for the division of employment and training of the department of labor and employment to ascertain and record the ~~handicap~~ DISABILITY, sex, age, race, creed, color, or national origin of any individual for the purpose of making such reports as may be required by law to agencies of the federal or state government only. Said records may be made and kept in the manner required by the federal or state law, but no such information shall be divulged by said division or department to prospective employers as a basis for employment, except as provided in this subsection (2).

(3) Nothing in this section shall prohibit any employer from making individualized agreements with respect to compensation or the terms, conditions, or privileges of employment for persons suffering a ~~handicap~~ DISABILITY if such individualized agreement is part of a therapeutic or job-training program of no more than twenty hours per week and lasting no more than eighteen months.

SECTION 62. 24-34-501 (3) and (4), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-34-501. Definitions. As used in this part 5, unless the context otherwise requires:

(3) "Person" has the meaning ascribed to such term in section 24-34-301 (5) and includes any owner, lessee, proprietor, manager, employee, or any agent of a person; but, for purposes of this part 5, "person" does not include any private club not open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose unless such club has the purpose of promoting discrimination in the matter of housing against any person because of ~~handicap~~ DISABILITY, race, creed, color, marital status, familial status, national origin, or ancestry.

(4) "Restrictive covenant" means any specification limiting the transfer, rental, or lease of any housing because of ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, familial status, national origin, or ancestry.

SECTION 63. 24-34-502 (1) (a), (1) (b), (1) (d), (1) (g), (1) (h), (1) (i), (1) (j), and (5), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-34-502. Unfair housing practices prohibited. (1) It shall be an unfair housing practice and unlawful and hereby prohibited:

(a) For any person to refuse to show, sell, transfer, rent, or lease, or to refuse to receive and transmit any bona fide offer to buy, sell, rent, or lease, or otherwise make unavailable or deny or withhold from any person such housing because of ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, familial status, religion, national origin, or ancestry; to discriminate against any person because of ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, familial status, religion, national origin, or ancestry in the terms, conditions, or privileges pertaining to any housing or the transfer, sale, rental, or lease thereof or in the furnishing of facilities or services in connection therewith; or to cause to be made any written or oral inquiry or record concerning the ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, familial status, religion, national origin, or ancestry of a person seeking to purchase, rent, or lease any housing; however, nothing in this paragraph (a) shall be construed to require a dwelling to be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others;

(b) For any person to whom application is made for financial assistance for the acquisition, construction, rehabilitation, repair, or maintenance of any housing to make or cause to be made any written or oral inquiry concerning the ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, familial status, religion, national origin, or ancestry of a person seeking such financial assistance or concerning the ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, familial status, religion, national origin, or ancestry of prospective occupants to tenants of such housing, or to discriminate against any person because of the ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, familial status, religion, national origin, or ancestry of such person or prospective occupants or tenants in the terms, conditions, or privileges relating to the obtaining or use of any such financial assistance;

(d) For any person to make, print, or publish or cause to be made, printed, or published any notice or advertisement relating to the sale, transfer, rental, or lease of any housing which indicates any preference, limitation, specification, or discrimination based on ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, familial status, national origin, or ancestry;

(g) For any person whose business includes residential real estate-related transactions, which transactions involve the making or purchasing of loans secured by residential real estate or the provisions of other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling or the selling, brokering, or appraising of residential real property, to discriminate against any person in making available such a transaction or in fixing the terms or conditions of such a transaction because of race, creed, color, religion, sex, marital status, ~~handicap~~ DISABILITY, familial status, or national origin or ancestry;

(h) For any person to deny another person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility related to the business of selling or renting dwellings or to discriminate against such person in the terms or conditions of such access, membership, or participation on account of race, creed, color, religion, sex, ~~handicap~~

DISABILITY, marital status, familial status, or national origin or ancestry.

(i) For any person, for profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, creed, national origin, or ancestry;

(j) For any person to represent to any other person that any dwelling is not available for inspection, sale, or rental, when such dwelling is in fact available, for the purpose of discriminating against another person on the basis of race, color, religion, sex, ~~handicap~~ DISABILITY, familial status, creed, national origin, or ancestry.

(5) Nothing in this section shall be construed to prevent or restrict the sale, lease, rental, transfer, or development of housing designed or intended for the use of ~~the~~ ~~handicapped~~ PERSONS WITH DISABILITIES.

SECTION 64. 24-34-502.2 (1) and (2) (a), the introductory portion to 24-34-502.2 (2) (c), and 24-34-502.2 (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended to read:

24-34-502.2. Unfair or discriminatory housing practices against persons with disabilities prohibited. (1) It shall be an unfair or discriminatory housing practice and unlawful and hereby prohibited:

(a) For any person to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a ~~handicap~~ DISABILITY of the buyer or renter, or of any person who will reside in the dwelling after it is sold, rented, or made available, or of any person associated with such buyer or renter.

(b) For any person to discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with such dwelling because of a ~~handicap~~ DISABILITY of that person, of any person residing in or intending to reside in that dwelling after it is so sold, rented, or made available, or of any person associated with that person.

(2) For purposes of this section, "discrimination" includes, but is not limited to:

(a) A refusal to permit, at the expense of the ~~handicapped~~ person WITH A DISABILITY, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications are necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is thirty months after the date of enactment of the federal "Fair Housing Amendments Act of 1988", a failure to design and construct those dwellings in such a manner that the public use and common use portions of such dwellings are readily accessible to and usable by ~~handicapped~~

persons WITH DISABILITIES. At least one building entrance shall be on an accessible route unless it is impractical to do so because of the terrain or the unusual characteristics of the site. All doors designed to allow passage into and within all premises within such dwellings shall be sufficiently wide to allow passage by ~~handicapped~~ persons WITH DISABILITIES in wheelchairs, and all premises within such dwellings shall contain the following features of adaptive design:

(3) Compliance with the appropriate requirements of the American national standard for buildings and facilities providing accessibility and usability for ~~physically handicapped people~~ PERSONS WITH PHYSICAL DISABILITIES (commonly cited as ANSI A117.1) suffices to satisfy the requirements of paragraph (c) of subsection (2) of this section.

SECTION 65. 24-34-601 (2), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-34-601. Discrimination in places of public accommodation. (2) It is a discriminatory practice and unlawful for a person, directly or indirectly, to refuse, withhold from, or deny to an individual or a group, because of ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, national origin, or ancestry, the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation or, directly or indirectly, to publish, circulate, issue, display, post, or mail any written or printed communication, notice, or advertisement which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation will be refused, withheld from, or denied an individual or that ~~his~~ AN INDIVIDUAL'S patronage or presence at a place of public accommodation is unwelcome, objectionable, unacceptable, or undesirable because of ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, national origin, or ancestry.

SECTION 66. 24-34-602, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-34-602. Penalty and civil liability. Any person who violates any of the provisions of section 24-34-601 by denying to any citizen, except for reasons applicable alike to all citizens of every ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, national origin, or ancestry, and regardless of ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, national origin, or ancestry, the full enjoyment of any of the accommodations, advantages, facilities, or privileges in said section enumerated or by aiding or inciting such denial, for every such offense, shall forfeit and pay a sum of not less than fifty dollars nor more than five hundred dollars to the person aggrieved thereby to be recovered in any court of competent jurisdiction in the county where said offense was committed; and also for every such offense such person is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than ten dollars nor more than three hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment. A judgment in favor of the party aggrieved or punishment upon an indictment or information shall be a bar to either prosecution, respectively; but the relief provided by this section shall be an alternative to that authorized by section 24-34-306 (9), and a person who seeks redress under this section shall not be permitted to seek relief from the commission.

SECTION 67. 24-34-701, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-34-701. Publishing of discriminative matter forbidden. No person, being the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, resort, or amusement, directly or indirectly, by himself OR HERSELF or through another person shall publish, issue, circulate, send, distribute, give away, or display in any way, manner, or shape or by any means or method, except as provided in this section, any communication, paper, poster, folder, manuscript, book, pamphlet, writing, print, letter, notice, or advertisement of any kind, nature, or description which is intended or calculated to discriminate or actually discriminates against any ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, national origin, or ancestry or against any of the members thereof in the matter of furnishing or neglecting or refusing to furnish to them or any one of them any lodging, housing, schooling, or tuition or any accommodation, right, privilege, advantage, or convenience offered to or enjoyed by the general public or which states that any of the accommodations, rights, privileges, advantages, or conveniences of any such place of public accommodation, resort, or amusement shall or will be refused, withheld from, or denied to any person or class of persons on account of ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, national origin, or ancestry or that the patronage, custom, presence, frequenting, dwelling, staying, or lodging at such place by any person or class of persons belonging to or purporting to be of any particular ~~handicap~~ DISABILITY, race, creed, color, sex, marital status, national origin, or ancestry is unwelcome or objectionable or not acceptable, desired, or solicited.

SECTION 68. 24-34-801 (1) (a), (1) (b), (1) (c), and (1) (d), Colorado Revised Statutes, 1988 Repl. Vol., are amended to read:

24-34-801. Legislative declaration. (1) The general assembly hereby declares that it is the policy of the state:

(a) To encourage and enable the blind, the visually ~~handicapped~~ IMPAIRED, the deaf, the partially deaf, and the otherwise physically disabled to participate fully in the social and economic life of the state and to engage in remunerative employment;

(b) That the blind, the visually ~~handicapped~~ IMPAIRED, the deaf, the partially deaf, and the otherwise physically disabled shall be employed in the state service, the service of the political subdivisions of the state, the public schools, and in all other employment supported in whole or in part by public funds on the same terms and conditions as the able-bodied unless it is shown that the particular disability prevents the performance of the work involved;

(c) That the blind, the visually ~~handicapped~~ IMPAIRED, the deaf, the partially deaf, and the otherwise physically disabled have the same rights as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and other public places;

(d) That the blind, the visually ~~handicapped~~ IMPAIRED, the deaf, the partially deaf, and the otherwise physically disabled are entitled to full and equal housing and full and equal accommodations, advantages, facilities, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or

any other public conveyances or modes of transportation, hotels, motels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, including restaurants and grocery stores; and that the blind, the visually ~~handicapped~~ IMPAIRED, the deaf, the partially deaf, or the otherwise physically disabled person assume the liability for any injury that he OR SHE might sustain which is attributable solely to causes originating with the nature of the particular disability involved and otherwise subject only to the conditions and limitations established by law and applicable alike to all persons;

SECTION 69. 24-90-105.5 (2), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

24-90-105.5. Radio reading services. (2) In addition to any other powers granted to the state librarian under this article, the state librarian shall have the power with respect to the state library to contract with entities for the furnishing of radio reading services to individuals who are blind or visually impaired or who have physical ~~handicaps~~ DISABILITIES which impair their use of printed materials.

SECTION 70. 24-111-102 (1) (c), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-111-102. Priorities among preferences. (1) When two or more socioeconomic procurement programs are applicable to the same procurement, businesses benefitting from such programs shall be considered in the following order of precedence:

(c) Industries for ~~the severely handicapped~~ PERSONS WITH SEVERE DISABILITIES.

SECTION 71. 25-1-107 (1) (aa), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

25-1-107. Powers and duties of the department. (1) The department has, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(aa) To operate and maintain a ~~handicapped children's~~ program FOR CHILDREN WITH DISABILITIES to provide and expedite provision of health care services to children who have congenital birth defects or who are the victims of burns or trauma or children who have acquired ~~handicaps~~ DISABILITIES;

SECTION 72. 25-1-709 (1) (a), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

25-1-709. Regional health departments - services - programs. (1) The program and services of regional health departments shall include to the greatest extent possible, but not be limited to:

(a) Personal health services, including: Communicable disease control; tuberculosis control; venereal disease control; alcohol and drug dependence control; chronic disease control; injury control; nutritional services; social services; multiphasic screening program (mobile prediagnostic case finding); and other

services such as medical care, mental health, mental retardation, and rehabilitation as may be assigned to the department; bedside home nursing care; maternal and child health services; ~~handicapped and crippled children's program~~ PROGRAM FOR CHILDREN WITH DISABILITIES; prevention of congenital defects; evaluation services for delayed development; family planning; school health; cooperative aftercare services for mental health; migratory labor health services; vision care; vision and hearing conservation program; and well oldster clinic service;

SECTION 73. 25-3.5-301 (5) (d), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

25-3.5-301. License required - exceptions. (5) The provisions of subsections (1) to (3) of this section shall not apply to the following:

(d) Vehicles used or designed for the scheduled transportation of convalescent patients, ~~handicapped~~ individuals WITH DISABILITIES, or persons who would not be expected to require skilled treatment or care while in the vehicle;

SECTION 74. 26-2-103 (11), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

26-2-103. Definitions. As used in this article, unless the context otherwise requires:

(11) "Social services" means services and payments for services (other than medical services covered by the "Colorado Medical Assistance Act") available, directly or indirectly, through the social services staff of the state and county departments or through state designated agencies, where applicable, for the benefit of eligible persons, which services are provided pursuant to rules and regulations adopted by the state department. "Social services" may include but need not be limited to day care, homemaker services, foster care, and other services to individuals or families for the purpose of attaining or retaining capabilities for maximum self-care, self-support, and personal independence and services to families or members of families for the purpose of preserving, rehabilitating, reuniting, or strengthening the family. At such time as Title XX of the social security act becomes effective with respect to federal reimbursements, "social services" may include but need not be limited to child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services, and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, ~~the physically handicapped~~ PERSONS WITH PHYSICAL DISABILITIES, and alcoholics and drug addicts.

SECTION 75. 26-7-101 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-7-101. Definitions. As used in this article, unless the context otherwise requires:

(2) "Child with special needs" means a child with a special, unusual, or significant physical or mental ~~handicap~~ DISABILITY, or emotional disturbance, or such other condition which acts as a serious barrier to ~~his~~ THE CHILD'S adoption.

SECTION 76. 26-8-105 (1), the introductory portion to 26-8-105 (2), and 26-8-105 (2) (a), (2) (c), (3) (a), (3) (d), and (4), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

26-8-105. Rehabilitation of persons with disabilities. (1) Except as otherwise provided by law, the state department shall provide rehabilitation services to ~~handicapped~~ persons WITH DISABILITIES determined to be eligible therefor.

(2) For the purposes of this article, ~~"handicapped person"~~ "PERSON WITH A DISABILITY" means any one or more of the following:

(a) Any individual who has a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting ~~his~~ THE INDIVIDUAL'S activities or functioning and which constitutes a substantial ~~handicap~~ DISABILITY to employment but which is of such nature that vocational rehabilitation services may reasonably be expected to render ~~him~~ THE INDIVIDUAL fit to engage in a remunerative occupation;

(c) An individual who does not have substantial physical or mental ~~handicap~~ DISABILITY who is receiving aid from public funds and who otherwise may be expected to remain a public charge of the county or state; who is ~~"vocationally handicapped"~~ HAS A VOCATIONAL DISABILITY because of lack of training, experience, skills, or other factors which, if corrected, would lead to self-support instead of dependency; who is either responsible for ~~his~~ THE INDIVIDUAL'S own maintenance or is the responsible head of a household; and who has a potential capacity which would warrant development with a reasonable chance for employment after rehabilitation services.

(3) The state department shall:

(a) Cooperate with other departments, agencies, and institutions, both public and private, in providing the services authorized by this article to ~~handicapped~~ persons WITH DISABILITIES, in studying the problems involved therein, and in establishing, developing, and providing, in conformity with the purposes of this article, such programs, facilities, and services as may be necessary or desirable;

(d) Operate through contract and supervise the operation of vending stands and other small businesses, established pursuant to this article and in accordance with the requirements of the federal government for the receipt of federal funds, to be conducted by ~~severely handicapped~~ individuals WITH SEVERE DISABILITIES, particularly the blind;

(4) (a) Vocational rehabilitation services, as defined by the federal "Vocational Rehabilitation Act", shall be provided directly or through public or private instrumentalities to or for the benefit of any ~~handicapped~~ individual WITH DISABILITIES who is residing in the state at the time of filing ~~his~~ AN application therefor, and whose rehabilitation the state department determines after full

investigation can be satisfactorily achieved, or who is eligible therefor under the terms of an agreement with another state or with the federal government.

(b) Any goods or services other than diagnostic and related services (including transportation) required for the determination of eligibility for service and of the nature and scope of the services to be provided, guidance, training, and placement shall be provided at the public cost only to the extent that the ~~handicapped~~ individual WITH DISABILITIES is found to require financial assistance in accordance with the rules and regulations of the state department.

SECTION 77. 26-8.1-101, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-8.1-101. Legislative declaration. The general assembly hereby determines and declares that it recognizes omissions in the delivery of independent living services to ~~severely handicapped~~ persons WITH SEVERE DISABILITIES and desires to remedy such inadequacies in the delivery system through services at the community level. To advance the independence of those ~~handicapped~~ persons WITH DISABILITIES who are otherwise dependent on governmental assistance and to assist such persons to live outside of institutions, the general assembly hereby enacts this article.

SECTION 78. 26-8.1-102, Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

26-8.1-102. Definitions. As used in this article, unless the context otherwise requires:

(1) ~~"Handicapped person" means a person as defined in section 26-8-105 (2) (a) and (2) (b).~~

(2) "Independent living rehabilitation center" means a private, nonprofit or for-profit corporation receiving funding from multiple sources which is community-based, which provides independent living rehabilitation services to ~~handicapped~~ persons WITH DISABILITIES pursuant to a program designed to help such persons achieve maximum social, vocational, economic, and personal independence, and which is staffed by persons trained to assist ~~handicapped~~ persons WITH DISABILITIES to achieve such independence.

(3) "Independent living rehabilitation services" means services which are provided in accordance with a written, individualized independent living plan which is designed to assist a ~~handicapped~~ person WITH A DISABILITY to achieve an independent living lifestyle. Such services include, but are not limited to, peer counseling, teaching daily living and socialization skills, coordinating recreational and community activities, assisting in the development of prevocational skills, helping to locate appropriate housing, maintaining equipment, providing service referral, including attendant, reader, and employment referral, and providing case management.

(4) "PERSON WITH A DISABILITY" MEANS A PERSON AS DEFINED IN SECTION 26-8-105 (2) (a) AND (2) (b).

SECTION 79. 26-8.1-103 (1) (a) and (1) (c), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

26-8.1-103. Functions of the state department - appropriation - purchase of services. (1) (a) The state department is hereby authorized, subject to annual appropriations by the general assembly, to purchase independent living rehabilitation services from independent living rehabilitation centers for ~~handicapped~~ persons WITH DISABILITIES when such services are provided pursuant to a program approved by the state department. The annual appropriation shall in no case exceed one hundred percent of the approved program costs as determined by the general assembly.

(c) No independent living rehabilitation services shall be purchased for a ~~handicapped~~ person WITH A DISABILITY which duplicate services provided to such person pursuant to article 10.5 of title 27, C.R.S., or pursuant to part 6 of article 4 of this title.

SECTION 80. 26-8.1-105 (1) (b), (2), and (4), Colorado Revised Statutes, 1989 Repl. Vol., are amended to read:

26-8.1-105. Approval of independent living rehabilitation programs. (1) In approving or rejecting the purchase of services from independent living rehabilitation centers, the state department shall consider the following factors:

(b) General community interest and participation in the delivery of independent living rehabilitation services to ~~severely handicapped~~ persons WITH SEVERE DISABILITIES.

(2) The following requirements shall be met by each independent living rehabilitation center as a condition of the approval of its program:

(a) The program shall be under the control and direction of a board of directors or trustees of a nonprofit or for-profit corporation, the members of which shall be persons with a demonstrated interest in programs for ~~handicapped~~ persons WITH DISABILITIES and no less than half the membership of which shall be comprised of ~~handicapped~~ persons WITH DISABILITIES;

(b) The independent living rehabilitation center shall be staffed with as large a proportion of ~~handicapped~~ persons WITH DISABILITIES as is practicable.

(4) Each independent living rehabilitation center board shall apply annually to the state department for approval of its independent living rehabilitation program for ~~handicapped~~ persons WITH DISABILITIES.

SECTION 81. 27-10.5-102 (11) (a), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

27-10.5-102. Definitions. As used in this article, unless the context otherwise requires:

(11) (a) "Developmental disability" means a disability that is manifested before the person reaches twenty-two years of age, which constitutes a substantial ~~handicap~~

DISABILITY to the affected individual, and is attributable to mental retardation or related conditions which include cerebral palsy, epilepsy, autism, or other neurological conditions when such conditions result in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation. Unless otherwise specifically stated, the federal definition of "developmental disability" found in 42 U.S.C. sec. 6000, et seq., shall not apply.

SECTION 82. 27-12-102 (2), Colorado Revised Statutes, 1989 Repl. Vol., is amended to read:

27-12-102. Cost determination. (2) With respect to any resident patient who is under the age of twenty-one years, there shall be deducted from the cost so determined an amount equal to the average per capita cost for the education of ~~handicapped~~ children WITH DISABILITIES pursuant to article 20 of title 22, C.R.S.

SECTION 83. 29-3-103 (10) (h), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

29-3-103. Definitions. As used in this article, unless the context otherwise requires:

(10) "Project" means any land, building, or other improvement and all real or personal properties, and any undivided or other interest in any of the foregoing, except inventories, raw materials, and other working capital, whether or not in existence, suitable or used for or in connection with any of the following:

(h) Sports and recreational facilities available for use by members of the general public either as participants or spectators and functionally related and subordinate residential housing facilities, including residential facilities, without regard to the limitations contained in paragraph (d) of this subsection (10), for employees of the persons or entities owning or operating such sports and recreational facilities and facilities located in proximity to and in connection with sports and recreational facilities providing treatment, therapy, or recreational opportunities for ~~mentally and physically handicapped~~ persons WITH MENTAL AND PHYSICAL DISABILITIES and families of such persons;

SECTION 84. 29-4-703 (5), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

29-4-703. Definitions. As used in this part 7, unless the context otherwise requires:

(5) "Family" means two or more persons related by blood, marriage, or adoption who live or expect to live together as a single household in the same home, a single person who is either at least sixty-two years of age or ~~handicapped~~ HAS A DISABILITY, or such other single persons as the board may by regulation determine to be eligible for assistance under this part 7.

SECTION 85. 31-10-1001, Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

31-10-1001. When absent electors may vote. When any registered elector of a municipality, on the day of any regular or special election held pursuant to law, is absent from ~~his~~ THE ELECTOR'S municipality, or by reason of his OR HER work or the nature of his OR HER employment is likely to be absent and fears that ~~he~~ THE ELECTOR will be absent from his OR HER municipality on said day, or because of serious illness, ~~handicap~~ DISABILITY, or advanced age, or for reasons based upon the doctrines of established religions is unable to attend the polls, ~~he~~ THE ELECTOR may cast ~~his~~ A ballot at such election in the manner provided in sections 31-10-1001 to 31-10-1007.

SECTION 86. 31-10-1002 (1), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

31-10-1002. Application for absentee ballot - delivery - list. (1) Requests for an application for an absentee voter's ballot may be made orally or in writing. Applications for absent voters' ballots shall be filed in writing with the clerk not earlier than ninety days before and not later than the close of business on the Friday immediately preceding such regular or special election. The application may be in the form of a letter, stating the applicant's residence address and that ~~he~~ THE APPLICANT will be absent from the municipality on the day of said regular or special election, or that his OR HER work or employment, stating the nature thereof, is such that ~~he~~ THE APPLICANT is likely to be absent and fears that he OR SHE will be absent from the municipality on said day, or that on account of serious illness, ~~handicap~~ DISABILITY, or advanced age, ~~he~~ THE APPLICANT is unable to attend the polls, or that for reasons based upon the doctrines of the established religion of which such applicant is a member he OR SHE shall be unable to attend the polls.

SECTION 87. 31-30-603 (1), Colorado Revised Statutes, 1986 Repl. Vol., is amended to read:

31-30-603. Pension fund - source - investment. (1) There shall be levied and set apart by the governing body of each city having a population of over one hundred thousand a tax for the year 1914 of not exceeding one cent on each one hundred dollars of valuation for assessment of taxable property in such city for said year as a fund for the pensioning of ~~crippled and~~ disabled members of the paid police department, their surviving spouses and dependent children under the age of sixteen years, and their dependent parents. A like tax shall be levied and set apart for the same purpose in each succeeding year when the amount and value of property to the credit of such fund falls below three hundred thousand dollars as of the date of September 1. If during any year succeeding 1913 there is to the credit of such fund on September 1 property and funds of less value than three hundred thousand dollars, the governing body of such city shall levy and set apart for the year succeeding a tax of one cent on each one hundred dollars of valuation for assessment of the taxable property in said city where said condition occurs for said year as a fund for the purposes defined in this subsection (1).

SECTION 88. 39-22-113 (1), (2), (3) (a), and (3) (b) (I), Colorado Revised Statutes, 1982 Repl. Vol., as amended, are amended to read:

39-22-113. Tax credit or refund for disabled persons who are employed - amount - applicability. (1) There shall be allowed to resident ~~handicapped~~ persons WITH DISABILITIES, as a credit or refund with respect to the income taxes imposed by

this article, the amounts specified in this section, based upon expenses incurred by reason of their employment. In order to qualify for a credit or refund under this section, a ~~handicapped~~ person WITH A DISABILITY shall be employed for a period of at least six months during the income tax year.

(2) For the purposes of this section, "~~handicapped~~" "DISABILITY" means ~~having~~ a physical impairment which substantially limits one or more of a person's major life activities.

(3) The amount of the credit or refund under this section shall be:

(a) The actual cost incurred for a home attendant required to enable the ~~handicapped~~ person WITH A DISABILITY to be employed, but not to exceed fifty dollars for each month (or portion of a month constituting at least one-half of the month) during which the ~~handicapped~~ person WITH A DISABILITY is employed;

(b) (I) For the income tax year in which the ~~handicapped~~ person WITH A DISABILITY purchases durable medical equipment to enable such person to be employed and for each of the three subsequent income tax years, twenty percent of the cost of such equipment.

SECTION 89. 40-1.1-101, Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

40-1.1-101. Legislative declaration. In order to promote improved transportation for the elderly, ~~the handicapped~~ FOR PERSONS WITH DISABILITIES, and FOR the residents of rural areas and small towns through an expanded and coordinated transportation network, the general assembly hereby declares it to be the policy of the state to legally define and to recognize people service transportation and volunteer transportation as separate but contributing components of the transportation system. Therefore, it is the policy of the state to remove barriers to low-cost people service transportation and volunteer transportation. For this purpose, transportation systems meeting the criteria prescribed in this article will not be classified as public utilities or as any form of carrier subject to regulation by the commission but as people service transportation and volunteer transportation subject to appropriate regulation and administration.

SECTION 90. 40-8.5-101, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

40-8.5-101. Legislative declaration. In enacting this article, the general assembly finds and declares that there is a need to make distributions of moneys to provide aid and assistance to the indigent, the elderly, and ~~the handicapped~~ PERSONS WITH DISABILITIES, who do not otherwise have the financial resources to meet their heating and other energy needs. The general assembly further finds and declares that the low-income energy assistance program of the department of social services is the most appropriate entity to determine those most in need of such aid and assistance. Therefore, this article shall authorize the commission on low-income energy assistance to establish a fund from which to collect and distribute moneys to accomplish the goals set forth in this section. The moneys for such fund shall be based in part on unclaimed utility deposits.

SECTION 91. 40-10-104 (3), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

40-10-104. Certificate required - exemptions - temporary certificate.

(3) This article shall not apply to motor vehicles designed and used for the nonemergency transportation of ~~handicapped~~ individuals WITH DISABILITIES as defined in section 42-7-510 (1.5) (b), C.R.S., nor to motor vehicles transporting sand, gravel, rock, dirt, stone, insulrock, road surfacing materials used in the construction of roads and highways except such road surfacing materials as are transported in tank vehicles, houses or other buildings excluding manufactured housing, timber, rough lumber, logs, or wooden poles. For the purposes of this subsection (3), "manufactured housing" means housing which is in part or entirely manufactured in a factory. This type of housing is built in single or multiple sections on a chassis which enables it to be transported to its occupancy site or is built in single or multiple sections for assembly at the site, and includes mobile homes, modular homes, and panelized homes.

SECTION 92. 40-11-102 (2), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

40-11-102. Compliance required - exceptions.

(2) Nothing in this article shall apply to any motor vehicle carrier as defined by section 40-10-101 (4) (a), nor to a private individual who carries a neighbor or a friend on a trip, nor to motor vehicles especially constructed for towing, wrecking, and repairing and not otherwise used in transporting property, nor to hearses or ambulances or other emergency vehicles, nor to motor vehicles transporting sand, gravel, rock, dirt, stone, insulrock, road surfacing materials used in the construction of roads and highways except such road surfacing materials as are transported in tank vehicles, houses or other buildings excluding manufactured housing as defined in section 40-10-104 (3), timber, rough lumber, logs, or wooden poles, nor to motor vehicles designed and used for the nonemergency transportation of ~~handicapped~~ individuals WITH DISABILITIES as defined in section 42-7-510 (1.5) (b), C.R.S.; but this article shall apply to motor vehicles used for transporting sludge and fly ash.

SECTION 93. 42-2-123 (5) (cc), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

42-2-123. Authority to suspend license - to deny license - type of conviction - points. (5) Point system schedule:

Type of conviction	Points
(cc) Failure to yield right-of-way to handicapped person WITH A DISABILITY pursuant to section 42-4-709	6

SECTION 94. 42-2-506 (2), (3), and (4), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

42-2-506. Fees. (2) The fee for the administration by commercial driver's license testing units of the driving test for licensing commercial drivers shall not exceed the sum of one hundred dollars; except that the fee for the administration of such driving

test to any employee or volunteer of a nonprofit organization which provides specialized transportation services for the elderly and ~~handicapped~~ FOR PERSONS WITH DISABILITIES, to any individual employed by a school district, or to any individual employed by a board of cooperative services shall not exceed forty dollars. The fee for the administration of driving tests by the department shall be one hundred dollars; except that the fee for the administration of such driving test to any employee or volunteer of a nonprofit organization which provides specialized transportation services for the elderly and ~~handicapped~~ FOR PERSONS WITH DISABILITIES, to any individual employed by a school district, or to any individual employed by a board of cooperative services shall not exceed forty dollars. The department may provide by regulation for reduced fees for applicants who are retested after failing all or any part of the driving test. All fees collected by the department for the administration of driving tests shall be forwarded to the state treasurer, who shall credit the same to the highway users tax fund. The general assembly shall make annual appropriations therefrom for the expenses of the administration of parts 1 to 3 of this article and this part 5.

(3) The annual license fee for a commercial driver's license testing unit shall be three hundred dollars for the initial license issuance and one hundred dollars for each succeeding annual license renewal. The department may provide by regulation for reduced license fees for testing units operated by nonprofit organizations which provide specialized transportation services for the elderly and ~~handicapped~~ FOR PERSONS WITH DISABILITIES, by school districts, or by boards of cooperative services. The provisions of this subsection (3) shall not apply to any public transportation system.

(4) The annual license fee for a commercial driver's license driving tester shall be one hundred dollars for the initial license issuance and fifty dollars for each succeeding annual license renewal. The department may provide by regulation for reduced license fees for employees or volunteers of nonprofit organizations which provide specialized transportation services for the elderly and ~~handicapped~~ FOR PERSONS WITH DISABILITIES, for individuals employed by school districts, or for individuals employed by boards of cooperative services. The provisions of this subsection (4) shall not apply to any public transportation system.

SECTION 95. 42-4-513, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

42-4-513. Disabled or paraplegic persons - distress flag. (1) Any ~~handicapped~~ or paraplegic person OR PERSON WITH A DISABILITY when in motor vehicle distress is authorized to display by the side of ~~his~~ SUCH PERSON'S disabled vehicle a white flag of approximately seven and one-half inches in width and thirteen inches in length, with ~~the letter "H"~~ THE LETTER "D" thereon in red color with an irregular one-half inch red border. Said flag shall be of reflective material so as to be readily discernible under darkened conditions, and said reflective material must be submitted to and approved by the department of transportation before the same is used.

(2) Any person desiring to use such display shall make application to the motor vehicle division of the department, and the department may in its discretion issue to such ~~handicapped~~ person WITH A DISABILITY upon application a card which sets forth the applicant's name, address, and date of birth, the physical apparatus needed to

operate a motor vehicle, if any, and any other pertinent facts which the department deems desirable, and in its discretion the department may issue a permit for the use of and issue to such person a display flag. Each such flag shall be numbered, and in the event of loss or destruction a duplicate may be issued upon the payment of the sum of one dollar by such applicant. The department shall maintain a list of such applicants and persons to whom permits and flags have been issued and furnish a copy thereof to the Colorado state patrol upon request.

(3) Any person who is not a ~~handicapped~~ or paraplegic person OR A PERSON WITH A DISABILITY who uses such flag as a signal or for any other purpose is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than three hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than ninety days, or by both such fine and imprisonment.

SECTION 96. 42-4-709 (1), Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

42-4-709. Drivers and pedestrians to yield to persons with disabilities.

(1) Any pedestrian or any driver of a vehicle who approaches a person who has an obviously apparent ~~handicap~~ DISABILITY of blindness, deafness, or mobility impairment shall immediately come to a full stop and take such precautions before proceeding as are necessary to avoid an accident or injury to said person. A ~~handicap~~ DISABILITY shall be deemed to be obviously apparent if, by way of example and without limitation, the person is using a cane or crutches, is assisted by a guide dog, service dog, or hearing dog, is being assisted by another person, is in a wheelchair, or is walking with an obvious physical impairment. Any person who violates any provision of this section commits a class 2 misdemeanor traffic offense.

SECTION 97. 42-4-1109 (1), the introductory portion to 42-4-1109 (2) (a), and 42-4-1109 (2) (b), (2) (c), (2.5), (3.3), (3.5), (3.7), (4), (5), (6), and (7), Colorado Revised Statutes, 1984 Repl. Vol., as amended, are amended to read:

42-4-1109. Parking privileges for persons with disabilities. (1) As used in this section, "~~handicapped person~~" "PERSON WITH A DISABILITY" means a person so severely ~~handicapped~~ IMPAIRED that ~~he~~ SUCH PERSON is unable to move from place to place without the aid of a mechanical device or who has a physical impairment verified, in writing, by the director of the division of rehabilitation or a physician licensed to practice medicine in this state that such impairment limits substantially ~~his~~ THE PERSON'S ability to move from place to place. Before such a verification can be made, said director or physician shall certify to the division that the standards established by the director of the division of rehabilitation for such a determination have been met.

(2) (a) A ~~handicapped~~ person WITH A DISABILITY may apply to the motor vehicle division of the department for:

(b) Such license plate or placard shall be issued to such person upon presentation to the motor vehicle division of a written statement, verified by a physician licensed to practice medicine in this state, that such person is a ~~handicapped~~ person WITH A DISABILITY. The application for a distinguishing license plate shall be sent to the

motor vehicle division each year.

(c) Such license plate or placard may be revoked by the motor vehicle division upon receipt of a sworn statement from a peace officer that the ~~handicapped~~ person WITH A DISABILITY has improperly used the privilege defined in subsection (3) of this section.

(2.5) The department shall issue temporary distinguishing license permits and a temporary identifying placard to any person who is temporarily a ~~handicapped~~ person WITH A DISABILITY upon presentation to the motor vehicle division of a written statement, verified by a physician licensed to practice medicine in this state, that such person temporarily meets the definition of a ~~handicapped~~ person WITH A DISABILITY. Such permits and placard shall be valid for a period of ninety days from the date of issuance and may continually be renewed for additional ninety-day periods during the term of such ~~handicap~~ DISABILITY upon resubmission of such written and verified statements. The provisions of this section including provisions regarding the privileges granted to ~~handicapped~~ persons WITH DISABILITIES, revocation of license plates or placards, and display of license plates and placards shall apply in the case of temporary license permits and temporary placards issued under this subsection (2.5). However, the provision in paragraph (b) of subsection (2) of this section that application for distinguishing plates shall be sent by September 15 of each year shall not apply.

(3.3) (a) A ~~handicapped~~ person WITH A DISABILITY may park in a parking space identified as being reserved for use by ~~the handicapped~~ PERSONS WITH DISABILITIES whether on public property or private property available for public use. A placard or license plate issued to a ~~handicapped~~ person WITH A DISABILITY shall be displayed on the vehicle while parked in such space.

(b) The owner of private property available for public use may request the installation of official signs identifying parking spaces reserved for use by ~~the handicapped~~ PERSONS WITH DISABILITIES. Such a request shall be a waiver of any objection the owner may assert concerning enforcement of this section by peace officers of any political subdivision of this state, and such officers are hereby authorized and empowered to so enforce this section, provisions of law to the contrary notwithstanding.

(c) Each parking space reserved for use by ~~the handicapped~~ PERSONS WITH DISABILITIES whether on public property or private property shall be marked with an official upright sign, which sign may be stationary or portable, identifying such parking space as reserved for use by ~~the handicapped~~ PERSONS WITH DISABILITIES.

(3.5) ~~Handicapped~~ Persons WITH DISABILITIES from states other than Colorado shall be allowed to use ~~handicapped~~ parking spaces FOR PERSONS WITH DISABILITIES in Colorado so long as such persons have valid license plates or placards from their home state.

(3.7) It is unlawful for any person other than a ~~handicapped~~ person WITH A DISABILITY to park in a parking space on public or private property which is clearly identified by an official sign as being reserved for use by ~~the handicapped~~ PERSONS WITH DISABILITIES unless such person is parking the vehicle for the benefit of a

~~handicapped~~ person WITH A DISABILITY.

(4) Any person who is not a ~~handicapped~~ person WITH A DISABILITY and who exercises the privilege defined in subsection (3) of this section or who violates the provisions of subsection (3.7) of this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of fifty dollars. The penalty assessment procedure of section 16-2-201, C.R.S., is available for the payment of the fine imposed by this section.

(5) Any person who is not a ~~handicapped~~ person WITH A DISABILITY and who uses a license plate or placard issued to a ~~handicapped~~ person WITH A DISABILITY pursuant to subsection (2) of this section in order to receive the benefits or privileges available to a ~~handicapped~~ person WITH A DISABILITY under this section is guilty of a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of up to fifty dollars.

(6) Any law enforcement officer or authorized ~~handicapped~~ parking enforcement official may check the identification of any person using a ~~handicapped~~ license plate or placard FOR PERSONS WITH DISABILITIES in order to determine whether such use is authorized.

(7) Any state agency or division thereof which transports ~~handicapped~~ persons WITH DISABILITIES may obtain a ~~handicapped~~ placard FOR PERSONS WITH DISABILITIES in the same manner provided in this section for any other person. In the event that such a placard is used by any employee of such state agency or division when not transporting ~~handicapped~~ persons WITH DISABILITIES, the executive director of such agency shall be subject to a fine of fifty dollars.

SECTION 98. 42-7-510 (1.5), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

42-7-510. Insurance or bond required. (1.5) (a) Every owner of a motor vehicle designed and used for the nonemergency transportation of ~~handicapped~~ individuals WITH DISABILITIES as defined in paragraph (b) of this subsection (1.5), before operating or permitting the operation of such vehicle upon any public highway in this state, shall file with the department a certificate evidencing a motor vehicle liability insurance policy issued by an insurance carrier or insurer authorized to do business in the state of Colorado or a surety bond issued by a company authorized to do a surety business in the state of Colorado with a minimum sum of fifty thousand dollars for damages to property of others; a minimum sum of one hundred thousand dollars for damages for or on account of bodily injury or death of one person as a result of any one accident; and, subject to such limit as to one person, a minimum sum of three hundred thousand dollars for or on account of bodily injury to or death of all persons as a result of any one accident.

(b) As used in this subsection (1.5), a "motor vehicle designed and used for the nonemergency transportation of ~~handicapped~~ individuals WITH DISABILITIES" means any motor vehicle designed to facilitate the loading of ~~physically handicapped~~ individuals WITH PHYSICAL DISABILITIES confined to a wheelchair except vehicles owned by the United States government, vehicles owned and operated by any special transportation district, or privately owned vehicles when such privately owned

vehicles are used by the owner to transport the owner or members of the owner's family who are confined to a wheelchair.

SECTION 99. 43-1-601, Colorado Revised Statutes, 1984 Repl. Vol., as amended, is amended to read:

43-1-601. Transportation services for the elderly and for persons with disabilities. The department of transportation and the executive director thereof are designated and authorized to take all steps and adopt all proceedings necessary to make and enter into such contracts or agreements as may be necessary for state application and administration of section 16 (b) (2) of the federal "Urban Mass Transportation Act of 1964" (Public Law 88-365, 49 U.S.C. SEC. 1601, et seq.), or any amendment thereof or successor legislation thereto, specifically designed for state operations including grant programs for the purpose of assisting nonprofit corporations, associations, and public bodies in making available appropriate highway transportation services for the elderly and ~~the handicapped~~ FOR PERSONS WITH DISABILITIES. In performing this work, the said department shall consult with concerned local authorities for a productive statewide coordinated effort and shall prepare a statewide survey showing the transportation needs of elderly and ~~handicapped~~ OF PERSONS WITH DISABILITIES in priority order. The general assembly shall determine the amounts to be expended for such purposes and shall appropriate such amounts from the highway users tax fund.

SECTION 100. 43-2-107 (2), Colorado Revised Statutes, 1984 Repl. Vol., is amended to read:

43-2-107. Standards of construction. (2) Any roads, streets, or highways constructed after July 1, 1975, by the state or any of its political subdivisions shall provide adequate and reasonable access for the safe and convenient movement of ~~physically handicapped~~ persons WITH DISABILITIES, including those in wheelchairs, across all newly constructed or replaced curbs at all pedestrian crosswalks; except that this subsection (2) shall not be applicable to any contracts executed or let for bid on or before July 1, 1975.

SECTION 101. Effective date. This act shall take effect July 1, 1993.

SECTION 102. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 6, 1993