

CHAPTER 72

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 98-1204

BY REPRESENTATIVES Entz, George, Salaz, K. Alexander, Epps, Hagedorn, Mace, and Spradley;
also SENATORS Dennis, Bishop, Chlouber, Congrove, Rizzuto, and Wattenberg.

AN ACT

CONCERNING THE ADMINISTRATION OF STATE NURSING HOMES, AND, IN CONNECTION THEREWITH,
REPEALING AND REENACTING STATUTES RELATING TO THE MANAGEMENT, CONTROL, SUPERVISION,
AND AUTHORITY TO ESTABLISH STATE NURSING HOMES AND STATE VETERANS NURSING HOMES.

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

SECTION 1. Article 12 of title 26, Colorado Revised Statutes, is REPEALED
AND REENACTED, WITH AMENDMENTS, to read:

ARTICLE 12
State and Veterans Nursing Homes
PART 1
MANAGEMENT, CONTROL, AND SUPERVISION

26-12-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS
THE "STATE AND VETERANS NURSING HOMES ACT".

26-12-102. Definitions. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT
OTHERWISE REQUIRES:

(1) "RESIDENT" MEANS A PERSON WHO IS RESIDING IN A STATE NURSING HOME
OPERATED PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

(2) "STATE BOARD" MEANS THE STATE BOARD OF HUMAN SERVICES.

(3) "STATE DEPARTMENT" MEANS THE STATE DEPARTMENT OF HUMAN SERVICES.

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

(4) "STATE NURSING HOME" MEANS ANY STATE NURSING HOME OR ANY STATE VETERANS NURSING HOME AND ALL PROGRAMS OPERATED BY SUCH STATE NURSING HOME OR STATE VETERANS NURSING HOME, INCLUDING DOMICILIARY SERVICES, DAY CARE, AND OTHER FACILITY PROGRAMS.

(5) "STATE VETERANS NURSING HOME" MEANS A STATE NURSING HOME THAT HAS BEEN DESIGNED AND CONSTRUCTED SO AS TO QUALIFY FOR FEDERAL FUNDS UNDER THE PROVISIONS OF FEDERAL PUBLIC LAW 88-450, AS AMENDED, AND THAT IS OPERATED SO AS TO QUALIFY FOR PER DIEM PAYMENTS FROM THE UNITED STATES VETERANS ADMINISTRATION UNDER THE PROVISIONS OF 38 U.S.C. SEC. 641.

26-12-103. State board duties - rulemaking. THE STATE BOARD SHALL ADOPT RULES FOR THE MANAGEMENT, CONTROL, AND SUPERVISION OF THE STATE NURSING HOMES OPERATED PURSUANT TO THE PROVISIONS OF THIS ARTICLE.

26-12-104. Eligibility for care. (1) A PERSON SHALL BE CONSIDERED FOR ADMISSION TO ANY STATE NURSING HOME IF HE OR SHE MEETS THE ELIGIBILITY REQUIREMENTS PRESCRIBED IN STATE AND FEDERAL REGULATIONS.

(2) AFTER ADMISSION, A RESIDENT SHALL BE SUBJECT TO PERIODIC REVIEW AS TO FINANCIAL STATUS, NEED FOR CONTINUING MEDICAL INSTITUTIONAL CARE, AND OTHER ELIGIBILITY FACTORS.

(3) A RESIDENT MAY BE TRANSFERRED OR DISCHARGED FOR CAUSE IN ACCORDANCE WITH FEDERAL REGULATIONS.

26-12-105. Application for admission - preference. (1) ANY PERSON MAY APPLY FOR ADMISSION TO ANY STATE NURSING HOME IN THE MANNER PRESCRIBED BY RULES OF THE STATE BOARD.

(2) ALL APPLICATIONS SHALL BE VOLUNTARY, AND ANY PERSON ADMITTED TO A STATE NURSING HOME SHALL HAVE THE RIGHT TO LEAVE THE STATE NURSING HOME AT ANY TIME HE OR SHE CHOOSES.

(3) A STATE NURSING HOME SHALL REVIEW ALL APPLICATIONS FOR ADMISSION WITH REASONABLE PROMPTNESS.

(4) IF THE NUMBER OF ELIGIBLE APPLICANTS EXCEEDS THE AVAILABLE FACILITIES IN A STATE NURSING HOME, THE STATE NURSING HOME SHALL GIVE PREFERENCE IN ADMISSION TO PERSONS WHOSE NEEDS ARE GREATEST UNDER STANDARDS ESTABLISHED IN STATE AND FEDERAL REGULATIONS.

26-12-106. Vacancies - additional admissions. IN THE EVENT THAT VACANCIES OCCUR IN A STATE NURSING HOME AND THERE ARE NO APPLICATIONS FOR ADMISSION FROM PERSONS ELIGIBLE UNDER SECTION 26-12-104, THE STATE NURSING HOME SHALL BE OPEN FOR TEMPORARY OCCUPANCY TO ANY PERSON BASED ON THE PERSON'S NEED FOR MEDICAL CARE AND ABILITY TO PAY FOR SERVICES IN ACCORDANCE WITH THE RULES OF THE STATE BOARD.

26-12-107. Standards - management. (1) EACH STATE NURSING HOME SHALL

BE OPERATED AND MAINTAINED UNDER STANDARDS ESTABLISHED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(2) EACH STATE NURSING HOME SHALL HAVE:

(a) A NURSING HOME ADMINISTRATOR; AND

(b) SUCH ADDITIONAL EMPLOYEES, INCLUDING MEDICAL AND NURSING PERSONNEL, AS MAY BE REQUIRED TO PROVIDE NURSING HOME SERVICES FOR WHICH THE STATE NURSING HOME WAS LICENSED.

(3) ALL STATE NURSING HOMES SHALL BE MANAGED AS A GROUP BY THE STATE DEPARTMENT, UNLESS THE STATE DEPARTMENT CONTRACTS FOR THE MANAGEMENT OF A STATE NURSING HOME IN ACCORDANCE WITH SECTION 26-12-119.

26-12-108. Payments for care - funds - annual report - collections for charges - central fund for state nursing homes created. (1) (a) THE STATE DEPARTMENT SHALL ESTABLISH RATES FOR THE CARE OF RESIDENTS, WHICH RATES SHALL BE AS NEARLY EQUAL TO THE COST OF OPERATION AND MAINTENANCE OF THE STATE NURSING HOMES AS PRACTICABLE. PAYMENTS SHALL BE MADE TO THE STATE DEPARTMENT UNLESS OTHERWISE PROVIDED PURSUANT TO A CONTRACT ENTERED INTO IN ACCORDANCE WITH SECTION 26-12-119. THE STATE DEPARTMENT SHALL DEPOSIT SUCH PAYMENTS TOGETHER WITH ANY OTHER MONEYS RECEIVED FROM ANY SOURCE FOR THE OPERATION AND MAINTENANCE OF THE STATE NURSING HOMES, WITH THE STATE TREASURER, WHO SHALL CREDIT ALL SUCH MONEYS TO THE CENTRAL FUND FOR STATE NURSING HOMES, REFERRED TO IN THIS ARTICLE AS THE "CENTRAL FUND", WHICH FUND IS HEREBY CREATED.

(b) (I) THE STATE DEPARTMENT IS AUTHORIZED TO EXPEND MONEYS OUT OF THE CENTRAL FUND FOR THE DIRECT AND INDIRECT COSTS INCURRED BY THE STATE DEPARTMENT FOR THE OPERATION AND ADMINISTRATION OF THE STATE NURSING HOMES AND FOR CAPITAL CONSTRUCTION IN CONNECTION WITH SUCH STATE NURSING HOMES. SUCH EXPENDITURES SHALL NOT REQUIRE AN APPROPRIATION BY THE GENERAL ASSEMBLY BUT SHALL BE LIMITED TO AMOUNTS IN THE CENTRAL FUND.

(II) ALL REQUESTS FOR CAPITAL CONSTRUCTION SUBMITTED BY THE STATE DEPARTMENT SHALL BE CONSIDERED BY THE CAPITAL DEVELOPMENT COMMITTEE PURSUANT TO SECTION 2-3-1304, C.R.S.

(III) ALL INTEREST DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEYS IN THE CENTRAL FUND SHALL BE CREDITED TO SUCH FUND. AT THE END OF ANY FISCAL YEAR, ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE CENTRAL FUND SHALL REMAIN THEREIN AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(c) THE STATE DEPARTMENT SHALL PREPARE AND SUBMIT TO THE GENERAL ASSEMBLY AN ANNUAL REPORT DETAILING THE FINANCIAL STATUS OF EACH OF THE STATE NURSING HOMES. THIS REPORT SHALL ALSO IDENTIFY WHICH OF THE STATE NURSING HOMES ADMINISTERED PURSUANT TO THE PROVISIONS OF THIS ARTICLE ARE OWNED BY THE STATE BUT OPERATED UNDER CONTRACT BY ANOTHER ENTITY.

(2) IT IS LAWFUL FOR EACH STATE NURSING HOME AND THE COLORADO STATE VETERANS CENTER TO DEPOSIT MONEYS BELONGING TO THE BENEFIT FUND ESTABLISHED PRIOR TO JULY 1, 1985, AND ALL DONATIONS OR OTHER VOLUNTARY CONTRIBUTIONS THAT MAY BE RECEIVED ON OR AFTER THAT DATE IN ANY MANNER FOR THE BENEFIT OF RESIDENTS OF EACH STATE NURSING HOME AND THE COLORADO STATE VETERANS CENTER IN AN INTEREST-BEARING ACCOUNT WITH A FEDERALLY INSURED FINANCIAL DEPOSITORY PURSUANT TO SECTION 24-75-603, C.R.S. WITHDRAWALS FROM SUCH ACCOUNTS SHALL BE MADE ONLY FOR THE BENEFIT, AID, AND ASSISTANCE OF RESIDENTS OF EACH STATE NURSING HOME OR THE OCCUPANTS OF THE COLORADO STATE VETERANS CENTER, INCLUDING RECREATIONAL EQUIPMENT AND FACILITIES.

(3) THE EXECUTIVE DIRECTOR MAY, IN THE NAME OF THE PEOPLE OF THE STATE OF COLORADO AND THROUGH THE ATTORNEY GENERAL, INSTITUTE AND MAINTAIN ACTIONS AT LAW FOR THE COLLECTION OF CHARGES DUE FROM RESIDENTS OF STATE NURSING HOMES AND THE COLORADO STATE VETERANS CENTER, OR SAID RESIDENTS' CONSERVATORS, GUARDIANS, EXECUTORS, OR ADMINISTRATORS, RESULTING FROM THE FAILURE, NEGLIGENCE, OR REFUSAL OF SAID PERSONS TO PAY SUCH CHARGES.

26-12-109. County chargeability. FOR THE PURPOSES OF THIS PART 1, A RESIDENT IN ANY STATE NURSING HOME SHALL BE A CHARGE FOR PUBLIC ASSISTANCE PURPOSES TO THE COUNTY IN WHICH SUCH STATE NURSING HOME IS LOCATED.

26-12-110. Declaration of policy - enterprise status. (1) ANY STATE NURSING HOME OR GROUP OF STATE NURSING HOMES SHALL CONSTITUTE AN ENTERPRISE FOR PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION SO LONG AS:

(a) THE STATE DEPARTMENT RETAINS AUTHORITY TO ISSUE ANTICIPATION WARRANTS ON BEHALF OF SUCH STATE NURSING HOME OR GROUP OF STATE NURSING HOMES; AND

(b) SUCH STATE NURSING HOME OR GROUP OF STATE NURSING HOMES RECEIVES LESS THAN TEN PERCENT OF ITS TOTAL ANNUAL REVENUES IN GRANTS FROM THE STATE AND ALL COLORADO LOCAL GOVERNMENTS COMBINED.

(2) SO LONG AS IT CONSTITUTES AN ENTERPRISE, A STATE NURSING HOME OR A GROUP OF STATE NURSING HOMES SHALL NOT BE SUBJECT TO ANY OF THE PROVISIONS OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

26-12-111. Proposed state nursing homes - criteria. (1) THE STATE DEPARTMENT, IN CONSULTATION WITH THE COLORADO BOARD OF VETERANS AFFAIRS, SHALL BE RESPONSIBLE FOR RECOMMENDING ANY PROPOSED SITES FOR STATE NURSING HOMES TO BE CONSTRUCTED, LEASED, OR PURCHASED ON OR AFTER JULY 1, 1998, TO THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET COMMITTEE. THE GENERAL ASSEMBLY SHALL BE RESPONSIBLE FOR THE SELECTION OF ANY PROPOSED SITE FOR SUCH STATE NURSING HOMES.

(2) WHEN EVALUATING A POTENTIAL SITE FOR A PROPOSED STATE NURSING HOME, THE FOLLOWING CRITERIA SHALL BE CONSIDERED:

(a) THE PROXIMITY OF THE PROPOSED FACILITY TO VETERANS AFFAIRS MEDICAL

SERVICES;

(b) THE IMPACT THE PROPOSED HOME WOULD HAVE UPON THE FINANCIAL VIABILITY OF STATE NURSING HOMES ALREADY IN EXISTENCE;

(c) WHETHER THERE IS AN ESTABLISHED BED NEED FOR THE PROPOSED STATE NURSING HOME BASED UPON THE LOCATION OF COLORADO VETERANS, THEIR FAMILIES, AND SUPPORT SYSTEMS.

(3) ANY STATE NURSING HOME CONSTRUCTED, LEASED, OR PURCHASED ON OR AFTER JULY 1, 1998, SHALL HAVE A BED CAPACITY OF AT LEAST ONE HUNDRED TWENTY BEDS.

(4) NO STATE VETERANS NURSING HOME SHALL BE CONSTRUCTED ON OR AFTER JULY 1, 1998, UNLESS OTHER STATE VETERANS NURSING HOMES HAVE MAINTAINED AN AVERAGE OCCUPANCY RATE OF AT LEAST EIGHTY PERCENT OVER THE SIX-MONTH PERIOD IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE CONSTRUCTION OF THE NEW STATE VETERANS NURSING HOME.

26-12-112. Powers and duties of state department. (1) THE STATE DEPARTMENT MAY, IN ADDITION TO THE POWERS GRANTED IN THIS ARTICLE, WHENEVER AUTHORIZED AND LOCATIONS HAVE BEEN DESIGNATED BY THE GENERAL ASSEMBLY:

(a) ESTABLISH, CONSTRUCT, OPERATE, MAINTAIN, AND IMPROVE, WITHIN THE STATE OF COLORADO, BUILDINGS AND FACILITIES, AND THE MEANS NECESSARY THERETO, FOR THE FULL EXERCISE OF THE POWERS GRANTED BY THIS ARTICLE;

(b) IDENTIFY THE RECORDS THAT THE NURSING HOME ADMINISTRATOR OF EACH STATE NURSING HOME SHALL SUBMIT TO THE STATE DEPARTMENT;

(c) SET ASIDE A SPECIAL SINKING FUND ACCOUNT IN THE CENTRAL FUND FOR THE PAYMENT OF ANTICIPATION WARRANTS AUTHORIZED BY AND ISSUED UNDER THE PROVISIONS OF SECTION 26-12-113 AND FOR THE PAYMENT OF INTEREST DUE ON SUCH WARRANTS; EXCEPT THAT THE STATE DEPARTMENT SHALL NOT PLEDGE THE GENERAL INCOME OF THE STATE OF COLORADO OR APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY FOR ANY STATE NURSING HOME, NOR SHALL IT CREATE A MORTGAGE UPON THE PROPERTY BELONGING TO ANY SUCH STATE NURSING HOME, FOR THE PAYMENT OF THE PRINCIPAL OF THE WARRANTS AND INTEREST THEREON. THE STATE DEPARTMENT SHALL DEPOSIT INTO THE SINKING FUND ACCOUNT FEES AND REVENUES RECEIVED FROM RESIDENTS AT STATE NURSING HOMES SUFFICIENT TO COVER NECESSARY RESERVE ACCOUNTS AND PRINCIPAL AND INTEREST PAYMENTS, WHICH FEES AND REVENUES SHALL FIRST BE APPLIED UPON THE PAYMENT OF PRINCIPAL AND SUCH ANTICIPATION WARRANTS AND INTEREST THEREON. ANY MONEYS IN SAID SINKING FUND ACCOUNT NOT NECESSARY FOR THE RESERVE NOR FOR THE PAYMENT OF SAID PRINCIPAL AND INTEREST MAY BE MADE AVAILABLE FOR THE MAINTENANCE AND OPERATION OF SUCH STATE NURSING HOMES.

(d) ACCEPT ANY GRANTS FROM, OR PAYMENTS MADE BY, THE UNITED STATES OR ANY AGENCY OR INSTRUMENTALITY THEREOF AND RECEIVE GIFTS, LEGACIES, DEVISES, AND CONVEYANCES OF PROPERTY, REAL OR PERSONAL, THAT MAY BE MADE, GIVEN,

TRANSFERRED PURSUANT TO A PURCHASE AND SALE, OR GRANTED TO THE STATE DEPARTMENT FOR STATE NURSING HOMES. THE STATE DEPARTMENT, WITH THE APPROVAL OF THE GOVERNOR, SHALL MAKE DISPOSITION OF SUCH PROPERTY IN THE BEST INTEREST OF THE STATE NURSING HOMES UNDER THE CONTROL AND SUPERVISION OF THE STATE DEPARTMENT.

(2) ALL TITLES TO REAL PROPERTY AND ALL IMPROVEMENTS THEREON SHALL BE VESTED IN THE STATE, AND THE TITLE DEEDS THERETO AND ALL INSURANCE POLICIES, CERTIFICATES OF WATER RIGHTS, AND OTHER EVIDENCES OF OWNERSHIP TO THE REAL PROPERTY OR IMPROVEMENTS OF SAID NURSING HOME SHALL BE DEPOSITED WITH THE STATE DEPARTMENT.

(3) NO PAYMENT SHALL BE MADE OUT OF THE STATE TREASURY OR OTHERWISE FOR ANY REAL PROPERTY DESCRIBED IN THIS SECTION UNTIL THE TITLE HAS BEEN EXAMINED AND APPROVED BY THE ATTORNEY GENERAL. EVERY SUCH DEED OF CONVEYANCE SHALL BE IMMEDIATELY RECORDED IN THE OFFICE OF THE PROPER COUNTY CLERK AND RECORDER AND THEREAFTER DEPOSITED WITH THE STATE DEPARTMENT.

26-12-113. Anticipation warrants - legislative declaration. (1) (a) FOR THE PURPOSE OF DEFRAYING THE COST OF CONSTRUCTION OF NEW FACILITIES, RECONSTRUCTION OR IMPROVEMENT OF EXISTING FACILITIES, AND MAINTENANCE AND OPERATION OF SUCH FACILITIES, THE STATE DEPARTMENT MAY, WITH THE APPROVAL OF THE GOVERNOR, ISSUE ANTICIPATION WARRANTS THAT SHALL BE PAYABLE SOLELY FROM THE SINKING FUND ACCOUNT DESCRIBED IN SECTION 26-12-112, AND THE PAYMENTS AND INTEREST ON SUCH ANTICIPATION WARRANTS SHALL BE A FIRST CHARGE ON AND SHALL BE PAYABLE FROM SAID ACCOUNT.

(b) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT THE AUTHORITY TO ISSUE ANTICIPATION WARRANTS AS SET FORTH IN THIS SECTION SHALL CONSTITUTE AUTHORITY TO ISSUE REVENUE BONDS FOR THE PURPOSES OF SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(2) ANY OTHER PROVISION OF THIS ARTICLE NOTWITHSTANDING, THE STATE DEPARTMENT MAY NOT ISSUE ANY ANTICIPATION WARRANTS OR OTHERWISE BORROW FUNDS FOR THE CONSTRUCTION OF ADDITIONAL STATE NURSING HOMES, UNLESS SUCH CONSTRUCTION OF ADDITIONAL STATE NURSING HOMES IS SPECIFICALLY AUTHORIZED BY LAW.

26-12-114. Interest - term. ALL ANTICIPATION WARRANTS ISSUED UNDER THE PROVISIONS OF SECTIONS 26-12-110 TO 26-12-118 SHALL BEAR INTEREST AT A RATE DETERMINED BY THE STATE DEPARTMENT AND SHALL BE EXECUTED IN SUCH A MANNER, SHALL BE PAID SERIALLY IN SUCH ANNUAL INSTALLMENTS, BEGINNING NOT LATER THAN TWO YEARS AND EXTENDING NOT MORE THAN TWENTY-FIVE YEARS FROM THE DATE THEREOF, AND SHALL BE EXECUTED AND PAID AT SUCH PLACE OR PLACES AS THE EXECUTIVE DIRECTOR SHALL DETERMINE.

26-12-115. Signatures validated. IF ANY OF THE OFFICERS WHOSE SIGNATURES OR COUNTERSIGNATURES APPEAR ON THE ANTICIPATION WARRANTS ISSUED UNDER THE PROVISIONS OF THIS ARTICLE OR COUPONS ATTACHED THERETO CEASE TO BE SUCH OFFICERS BEFORE DELIVERY OF SUCH WARRANTS, SUCH SIGNATURES AND

COUNTERSIGNATURES SHALL NEVERTHELESS BE VALID AND SUFFICIENT FOR ALL PURPOSES WITH THE SAME FORCE AND EFFECT AS IF THEY HAD REMAINED IN OFFICE UNTIL SUCH DELIVERY.

26-12-116. Obligations limited. (1) NOTHING IN SECTIONS 26-12-110 TO 26-12-118 SHALL BE CONSTRUED AS TO AUTHORIZE THE STATE DEPARTMENT TO INCUR ANY OBLIGATION OF ANY KIND OR NATURE EXCEPT SUCH AS SHALL BE PAYABLE SOLELY FROM MONEYS ACCRUING TO THE SPECIAL SINKING FUND ACCOUNT CREATED PURSUANT TO SECTION 26-12-112.

(2) IT SHALL BE PLAINLY STATED ON THE FACE OF EACH ANTICIPATION WARRANT THAT IT HAS BEEN ISSUED UNDER THE PROVISIONS OF SECTIONS 26-12-110 TO 26-12-118 AND THAT IT DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE GENERAL FUND OF THE STATE WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION OR LIMITATION.

26-12-117. Anticipation warrants legal investments. IT IS LAWFUL FOR THE STATE OF COLORADO, ANY OF ITS DEPARTMENTS, INSTITUTIONS, OR AGENCIES, OR ANY POLITICAL SUBDIVISION OF THE STATE TO PURCHASE ANTICIPATION WARRANTS ISSUED PURSUANT TO THE PROVISIONS OF SECTIONS 26-12-110 TO 26-12-118 IF SUCH WARRANTS SATISFY THE INVESTMENT REQUIREMENTS ESTABLISHED IN PART 6 OF ARTICLE 75 OF TITLE 24, C.R.S.; EXCEPT THAT THE STATE, ITS DEPARTMENTS, INSTITUTIONS, OR AGENCIES, OR ANY OF ITS POLITICAL SUBDIVISIONS SHALL NOT INVEST MORE THAN TWENTY PERCENT OF THE TOTAL OF ANY SPECIFIC FUND OF SUCH ENTITIES IN SUCH WARRANTS.

26-12-118. Order of payment of warrants. THE ANTICIPATION WARRANTS ISSUED UNDER THIS PART 1 SHALL BE SERIALLY NUMBERED AND SHALL BE PAID OFF AND RETIRED IN THE ORDER IN WHICH THEY WERE ISSUED.

26-12-119. Contractual agreements. (1) THE STATE DEPARTMENT IS AUTHORIZED TO CONTRACT WITH ANY PUBLIC OR PRIVATE ENTITY FOR ALL OR PART OF THE OPERATION OR MANAGEMENT OF ANY STATE NURSING HOME IN ACCORDANCE WITH THE "PROCUREMENT CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., AND WITH PART 5 OF ARTICLE 50 OF TITLE 24, C.R.S.

(2) ANY CONTRACT AUTHORIZED PURSUANT TO SUBSECTION (1) OF THIS SECTION SHALL SPECIFY THE ENTITY'S REPORTING RELATIONSHIP TO THE STATE AND DELINEATE RESPONSIBILITY FOR RATE CALCULATION, FINANCIAL PERFORMANCE, LIABILITY, AND COMPLIANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

26-12-120. Intestate estate - escheat. (1) IF A RESIDENT DIES WITHOUT LEGAL HEIRS AND WITHOUT A WILL DISPOSING OF HIS OR HER ESTATE, ALL OF THE PROPERTY, REAL AND PERSONAL, SHALL PASS TO THE STATE OF COLORADO FOR THE SOLE USE AND BENEFIT OF THE STATE NURSING HOME IN WHICH THE RESIDENT LIVED AT THE TIME OF HIS OR HER DEATH, SUBJECT TO THE PROVISIONS OF SECTION 26-4-403.3 AND SUBSECTION (2) OF THIS SECTION.

(2) (a) THE PERSONAL PROPERTY AND EFFECTS OF DECEASED RESIDENTS SHALL BE TAKEN INTO POSSESSION BY THE STATE NURSING HOME ADMINISTRATOR OF THE STATE NURSING HOME IN WHICH THE RESIDENT LIVED AT THE TIME OF HIS OR HER DEATH AND

HELD IN ACCORDANCE WITH THE RULES OF THE STATE BOARD.

(b) SUCH RULES SHALL PROVIDE FOR A SUFFICIENT PERIOD OF TIME NOT TO EXCEED ONE YEAR IN WHICH THE HEIRS OF A DECEASED RESIDENT MAY MAKE CLAIM TO THE DECEASED RESIDENT'S PROPERTY AND EFFECTS. IF NO CLAIM IS MADE TO THE PROPERTY, THE PROPERTY MAY BE SOLD, AND THE PROCEEDS OF THE SALE SHALL BE PLACED IN THE BENEFIT FUND CREATED BY SECTION 26-12-108 (2) FOR THE PERSONAL USE AND BENEFIT OF OTHER RESIDENTS OF THE STATE NURSING HOME IN WHICH THE RESIDENT LIVED AT THE TIME OF HIS OR HER DEATH, SUBJECT TO CLAIMS AS A RESULT OF APPROPRIATE JUDICIAL PROCEEDINGS.

PART 2
SPECIFIC STATE
NURSING HOMES AUTHORIZED

26-12-201. State nursing homes authorized. (1) THERE IS HEREBY ESTABLISHED A STATE NURSING HOME, TO BE KNOWN AS THE TRINIDAD STATE NURSING HOME, TO BE LOCATED AT OR NEAR THE CITY OF TRINIDAD, COLORADO.

(2) (a) SUBJECT TO AVAILABLE APPROPRIATIONS, THERE IS HEREBY AUTHORIZED THE ESTABLISHMENT AND CONSTRUCTION OF STATE NURSING HOMES FOR VETERANS OF SERVICE IN THE ARMED FORCES OF THE UNITED STATES AND THEIR SPOUSES, SURVIVING SPOUSES, OR DEPENDENT PARENTS. EACH SUCH STATE NURSING HOME SHALL BE KNOWN AS THE COLORADO STATE VETERANS NURSING HOME, COLLECTIVELY REFERRED TO IN THIS ARTICLE AS "STATE VETERANS NURSING HOMES".

(b) STATE VETERANS NURSING HOMES SHALL BE LOCATED AT OR NEAR THE CITY OF FLORENCE, AT OR NEAR THE CITY OF WALSENBURG, AT OR NEAR THE CITY OF RIFLE, AND IN HOMELAKE.

(3) THE STATE DEPARTMENT SHALL EVALUATE ANY PROPOSED SITES FOR A STATE VETERANS NURSING HOME TO BE CONSTRUCTED, LEASED, OR PURCHASED ON OR AFTER JULY 1, 1998, IN ACCORDANCE WITH SECTION 26-12-111.

(4) THE STATE VETERANS NURSING HOMES SHALL BE DESIGNED AND CONSTRUCTED SO AS TO QUALIFY FOR FEDERAL FUNDING UNDER THE PROVISIONS OF FEDERAL PUBLIC LAW 88-450, AS AMENDED. THE STATE VETERANS NURSING HOMES SHALL BE UNDER THE CONTROL AND SUPERVISION OF THE STATE DEPARTMENT, AND THEY SHALL BE OPERATED SO AS TO QUALIFY FOR PER DIEM PAYMENTS FROM THE UNITED STATES VETERANS ADMINISTRATION UNDER THE PROVISIONS OF 38 U.S.C. SEC. 641.

26-12-202. Walsenburg - contractual arrangement. (1) FOR AS LONG AS THE CONTRACT IS IN EFFECT WITH THE HUERFANO COUNTY HOSPITAL DISTRICT FOR THE OPERATION OF THE WALSENBURG STATE VETERANS NURSING HOME, THE CONTRACT SHALL STATE THAT THE HOME IS A SEPARATE ENTITY FOR FINANCIAL REPORTING PURPOSES. THE CONTRACT SHALL ALSO STATE THAT THE DISTRICT IS RESPONSIBLE FOR FINANCIAL REPORTING, RATE CALCULATION, FINANCIAL PERFORMANCE, COMPLIANCE WITH ALL STATE AND FEDERAL REGULATIONS, AND COMPLIANCE WITH SECTION 20 OF ARTICLE X OF THE STATE CONSTITUTION.

(2) THE WALSENBURG STATE VETERANS NURSING HOME SHALL REMAIN A

STATE-OWNED ENTITY FOR PURPOSES OF QUALIFYING FOR FEDERAL VETERANS ASSISTANCE PAYMENTS AND OTHER FEDERAL VETERANS PROGRAMS.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS AFFECTING THE STATE'S ABILITY TO TAKE OVER OPERATIONS OR TO CONTRACT WITH ANY OTHER ENTITY SHOULD THE CONTRACT WITH THE DISTRICT TERMINATE.

26-12-203. The Colorado state veterans center - jurisdiction. (1) (a) THE COLORADO STATE VETERANS CENTER, LOCATED NEAR MONTE VISTA, CONSISTING OF A STATE NURSING HOME AND A DOMICILIARY CARE UNIT, REFERRED TO IN THIS ARTICLE AS THE "CENTER", AS TRANSFERRED TO THE STATE DEPARTMENT BY THE "ADMINISTRATIVE ORGANIZATION ACT OF 1968", IS HEREBY DECLARED TO BE A STATE HOME FOR VETERANS OF SERVICE IN THE ARMED FORCES OF THE UNITED STATES AND THEIR SPOUSES, SURVIVING SPOUSES, AND DEPENDENT PARENTS.

(b) THE LEGAL EFFECT OF ANY STATUTE ENACTED PRIOR TO JULY 1, 1973, DESIGNATING SUCH INSTITUTION AS THE SOLDIERS' AND SAILORS' HOME OR THE MONTE VISTA GOLDEN AGE CENTER, OR BY ANY OTHER NAME, OR PROPERTY RIGHTS ACQUIRED AND OBLIGATIONS INCURRED PRIOR TO SAID DATE UNDER ANY OTHER NAME, SHALL NOT BE IMPAIRED HEREBY.

(2) THE CENTER SHALL BE UNDER THE CONTROL AND SUPERVISION OF THE STATE DEPARTMENT.

(3) FOR PURPOSES OF THIS SECTION, "DOMICILIARY CARE" MEANS THE PROVISION OF SHELTER, FOOD, AND NECESSARY MEDICAL CARE ON AN AMBULATORY SELF-CARE BASIS:

(a) TO ASSIST ANY INDIVIDUAL WHO IS ELIGIBLE FOR OCCUPANCY IN THE COLORADO STATE VETERANS CENTER PURSUANT TO SECTIONS 26-12-104 AND 26-12-106 AND WHO IS SUFFERING FROM AN INCAPACITATING DISABILITY, DISEASE, OR DEFECT THAT PREVENTS SUCH VETERAN FROM EARNING A LIVING, BUT THAT DOES NOT REQUIRE HOSPITALIZATION OR NURSING CARE SERVICES TO ATTAIN PHYSICAL, MENTAL, AND SOCIAL WELL-BEING; AND

(b) TO RESTORE, THROUGH SPECIAL REHABILITATIVE PROGRAMS, SUCH INDIVIDUAL TO HIS OR HER HIGHEST LEVEL OF FUNCTIONING.

26-12-204. Sale of property. (1) THE EXECUTIVE DIRECTOR, WITH THE APPROVAL OF THE STATE BOARD, SHALL SELL ANY REAL PROPERTY AT THE COLORADO STATE VETERANS CENTER DECLARED TO BE SURPLUS BY THE STATE BOARD TO THE HIGHEST BIDDER ON SUCH TERMS AND CONDITIONS AS ARE DEEMED APPROPRIATE BY THE EXECUTIVE DIRECTOR FOR NOT LESS THAN THE APPRAISED VALUE THEREOF, AS DETERMINED BY AN APPRAISER WHO IS A MEMBER OF THE MEMBERS APPRAISAL INSTITUTE (MAI), AND TO EXECUTE DEEDS OF CONVEYANCE OF SUCH REAL PROPERTY.

(2) UPON THE SALE OF REAL PROPERTY PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE PROCEEDS SHALL BE DEPOSITED IN THE CENTRAL FUND AND APPLIED TOWARD THE RETIREMENT OF ANY OUTSTANDING ANTICIPATION WARRANTS.

26-12-205. Burial - Colorado state veterans center. (1) ANY VETERAN WHO

SERVED HONORABLY IN ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES DURING ANY WAR OF THE UNITED STATES OR WHO HAS SERVED UNDER CONDITIONS DETERMINED COMPARABLE THERETO AND WHO AT THE TIME OF HIS OR HER DEATH WAS A RESIDENT OF THIS STATE SHALL BE ELIGIBLE FOR BURIAL AND INTERMENT AT THE CENTER.

(2) BURIAL AND INTERMENT MAY BE PROVIDED AT THE CENTER FOR ANY SPOUSE, SURVIVING SPOUSE, OR DEPENDENT PARENT OF AN HONORABLY DISCHARGED VETERAN OF ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES WHO WAS ENGAGED IN ANY OF ITS WARS OR WHO HAS SERVED UNDER CONDITIONS DETERMINED COMPARABLE THERETO WHEN SUCH SPOUSE, SURVIVING SPOUSE, OR DEPENDENT PARENT WAS AN OCCUPANT OF THE CENTER AT THE TIME OF DEATH.

(3) ALL NECESSARY EXPENSES INCIDENT TO THE BURIAL AND INTERMENT AT THE CENTER OF ANY PERSON WHO MAY BE BURIED AND INTERRED AT THE CENTER PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE PAID FROM THE ESTATE OF THE DECEDENT.

26-12-206. Statement of intent. THE GENERAL ASSEMBLY OF THE STATE OF COLORADO HEREBY EXPRESSES ITS INTENT TO APPROPRIATE THE NECESSARY FUNDS FROM TIME TO TIME TO PLAN AND CONSTRUCT THE STATE NURSING HOMES AND TO OPERATE SAID HOMES IN ACCORDANCE WITH TITLE 38, U.S. CODE.

26-12-207. Federal funds. WHENEVER A LAW OR RULE PERTAINING TO THE VETERANS ADMINISTRATION OR ANY OTHER FEDERAL LAW PERMITS THE STATE TO RECEIVE FEDERAL FUNDS FOR THE USE AND BENEFIT OF THE STATE NURSING HOMES, THE EXECUTIVE DIRECTOR SHALL APPLY FOR AND USE SUCH FEDERAL FUNDS FOR THE BENEFIT OF THE STATE NURSING HOMES.

SECTION 2. 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: April 10, 1998