

CHAPTER 121

MILITARY AND VETERANS

HOUSE BILL 02-1413

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also SENATOR(S) Nichol, Entz, Anderson, Andrews, Arnold, Cairns, Chlouber, Dyer, Evans, Fitz-Gerald, Gordon, Hagedorn, Hanna, Hernandez, Hillman, Isgar, Lamborn, Linkhart, Matsunaka, May, McElhany, Musgrave, Owen, Pascoe, Perlmutter, Phillips, Reeves, Takis, Tate, Taylor, Teck, Thiebaut, Tupa, and Windels.

AN ACT

CONCERNING THE STATE ADMINISTRATION OF VETERANS PROGRAMS, AND, IN CONNECTION THEREWITH, TRANSFERRING CERTAIN FUNCTIONS RELATED TO VETERANS PROGRAMS TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS, RENAMING A DEPARTMENT, AND MAKING A TRANSFER OF APPROPRIATION.

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

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

- (a) There is a need for increased recognition of the role of veterans in the state;
- (b) The public is supportive of a renewed commitment by state and local government to provide ongoing assistance to and services for veterans;
- (c) Veterans themselves are looking for a strengthened presence and higher visibility on the state level; and
- (d) The state's veterans would benefit from a restructuring of government resources to assist in the administration and coordination of programs for veterans.

(2) The general assembly therefore finds and declares that the relocation of certain designated state programs for veterans to the new department of military and veterans affairs is intended to increase the visibility and accessibility of programs to benefit veterans.

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

SECTION 2. 28-3-101, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

28-3-101. Definitions. AS USED IN THIS TITLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACTIVE SERVICE" MEANS FULL-TIME SERVICE ON BEHALF OF THE STATE WHEN ORDERED BY COMPETENT AUTHORITY.

(2) "ARMED FORCES" MEANS THE ARMY, NAVY, AIR FORCE, MARINE CORPS, AND COAST GUARD OF THE UNITED STATES.

(3) "BOARD" MEANS THE COLORADO BOARD OF VETERANS AFFAIRS.

(4) "COUNTY VETERANS SERVICE OFFICER" MEANS ANY PERSON APPOINTED TO SERVE AS SUCH PURSUANT TO SECTION 28-5-801.

(5) "DEPARTMENT" MEANS THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS CREATED AND EXISTING PURSUANT TO SECTION 24-1-127, C.R.S.

(6) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OF VETERANS AFFAIRS.

(7) "DIVISION" OR "DIVISION OF VETERANS AFFAIRS" MEANS THE DIVISION OF VETERANS AFFAIRS CREATED AND EXISTING WITHIN THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS.

(8) "IN THE SERVICE OF THE UNITED STATES" AND "NOT IN THE SERVICE OF THE UNITED STATES" MEAN THE SAME AS SUCH TERMS ARE USED IN THE "NATIONAL DEFENSE ACT OF CONGRESS", APPROVED JUNE 3, 1916, AND AMENDMENTS THERETO.

(9) "MASTER SETTLEMENT AGREEMENT" MEANS THE MASTER SETTLEMENT AGREEMENT, THE SMOKELESS TOBACCO MASTER SETTLEMENT AGREEMENT, AND THE CONSENT DECREE APPROVED AND ENTERED BY THE COURT IN THE CASE DENOMINATED *STATE OF COLORADO, EX REL. GALE A. NORTON, ATTORNEY GENERAL V. R.J. REYNOLDS TOBACCO CO.; AMERICAN TOBACCO CO., INC.; BROWN & WILLIAMSON TOBACCO CORP.; LIGGETT & MYERS, INC.; LORILLARD TOBACCO CO., INC.; PHILLIP MORRIS, INC.; UNITED STATES TOBACCO CO.; B.A.T. INDUSTRIES, P.L.C.; THE COUNCIL FOR TOBACCO RESEARCH--U.S.A., INC.; AND TOBACCO INSTITUTE, INC.*, CASE NO. 97 CV 3432, IN THE DISTRICT COURT FOR THE CITY AND COUNTY OF DENVER.

(10) "MILITARY FORCES" INCLUDES THE FEDERALLY RECOGNIZED NATIONAL GUARD AND ANY OTHER ORGANIZATIONS OR COMPONENTS OF THE ORGANIZED MILITIA AS MAY BE CREATED BY THE GOVERNOR PURSUANT TO FEDERAL OR STATE LAW.

(11) "MILITARY SERVICE" MEANS SERVICE IN ANY OF THE ARMED FORCES OF THE STATE OF COLORADO OR THE UNITED STATES.

(12) "NATIONAL GUARD" INCLUDES THE ARMY NATIONAL GUARD AND THE AIR NATIONAL GUARD.

(13) "ON DUTY" INCLUDES PERIODS OF DRILL AND SUCH OTHER TRAINING AND SERVICE AS MAY BE REQUIRED UNDER STATE OR FEDERAL LAW, REGULATIONS, OR ORDERS.

(14) "TRUST FUND" MEANS THE COLORADO STATE VETERANS TRUST FUND CREATED IN SECTION 28-5-709.

(15) "VETERAN" MEANS A PERSON WHO SERVED IN THE ACTIVE MILITARY, NAVAL, OR AIR SERVICE OF THE UNITED STATES, AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER CONDITIONS OTHER THAN DISHONORABLE.

SECTION 3. Article 5 of title 28, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW PARTS CONTAINING RELOCATED PROVISIONS, WITH AMENDMENTS, to read:

PART 7
DIVISION OF VETERANS AFFAIRS

28-5-701. [Formerly 26-10-101] Division of veterans affairs - transfer of functions - terminology. (1) THERE IS HEREBY CREATED THE DIVISION OF VETERANS AFFAIRS WITHIN THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS, THE HEAD OF WHICH SHALL BE THE DIRECTOR OF THE DIVISION OF VETERANS AFFAIRS WHO SHALL BE APPOINTED BY THE ADJUTANT GENERAL ACTING IN HIS OR HER CAPACITY AS THE ADMINISTRATIVE HEAD OF THE DEPARTMENT. THE DIRECTOR SHALL APPOINT SUCH ASSISTANTS AND CLERICAL EMPLOYEES AS MAY BE DEEMED NECESSARY TO EFFECTIVELY ADMINISTER THIS PART 7 AND PART 8 OF THIS ARTICLE. THE DIRECTOR AND SUCH ASSISTANTS AND EMPLOYEES SHALL BE APPOINTED PURSUANT TO SECTION 13 OF ARTICLE XII OF THE STATE CONSTITUTION.

(2) Whenever any law of this state refers to the Colorado department of veterans affairs or to the veterans affairs section, said law shall be construed as referring to the division of veterans affairs.

(3) THE DIVISION AND THE BOARD SHALL, ON AND AFTER JULY 1, 2002, EXECUTE, ADMINISTER, PERFORM, AND ENFORCE THE RIGHTS, POWERS, DUTIES, FUNCTIONS, AND OBLIGATIONS VESTED IN THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO ARTICLES 9 AND 10 OF TITLE 26, C.R.S., PRIOR TO SAID DATE. ON AND AFTER JULY 1, 2002, ANY OFFICERS OR EMPLOYEES OF THE DEPARTMENT OF HUMAN SERVICES WHOSE PRIMARY DUTIES WERE TO CARRY OUT THE FUNCTIONS SPECIFIED IN ARTICLES 9 AND 10 OF TITLE 26, C.R.S., PRIOR TO SAID DATE AND WHOSE DUTIES AND FUNCTIONS CONCERNED THE DUTIES AND FUNCTIONS TRANSFERRED TO THE DIVISION PURSUANT TO THIS PART 7 AND PART 8 OF THIS ARTICLE, AND WHOSE EMPLOYMENT IN THE DIVISION IS DEEMED NECESSARY BY THE DIRECTOR TO CARRY OUT THE PURPOSES OF THIS ARTICLE SHALL BE TRANSFERRED TO THE DEPARTMENT AND BECOME EMPLOYEES THEREOF. SUCH EMPLOYEES SHALL RETAIN ALL RIGHTS TO THE PERSONNEL SYSTEM AND RETIREMENT BENEFITS PURSUANT TO THE LAWS OF THIS STATE, AND THEIR SERVICES SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. ALL TRANSFERS AND ANY ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE MADE AND PROCESSED IN ACCORDANCE WITH STATE PERSONNEL SYSTEM LAWS AND REGULATIONS.

(4) (a) ON JULY 1, 2002, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF THE DEPARTMENT OF HUMAN SERVICES PRIOR TO SAID DATE PERTAINING TO THE DUTIES AND FUNCTIONS TRANSFERRED TO THE DIVISION PURSUANT TO THIS PART 7 AND PART 8 OF THIS TITLE ARE TRANSFERRED TO THE DEPARTMENT AND BECOME THE PROPERTY THEREOF.

(b) ON OR BEFORE SEPTEMBER 1, 2002, THE DEPARTMENT OF HUMAN SERVICES AND THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS SHALL AGREE ON THE METHOD, SCOPE, AND PROCEDURES FOR THE TRANSFER OF ANY PROPERTY, MINERAL, AND WATER RIGHTS INVOLVING THE WESTERN SLOPE MILITARY VETERANS CEMETERY, AS DESCRIBED IN SECTION 28-5-708, IN ORDER TO ENSURE THAT THE USE OF SAID CEMETERY IS CONTINUOUS AND CONSISTENT WITH FEDERAL LAW.

(5) WHENEVER THE DEPARTMENT OF HUMAN SERVICES IS REFERRED TO OR DESIGNATED BY A CONTRACT OR OTHER DOCUMENT IN CONNECTION WITH THE DUTIES AND FUNCTIONS TRANSFERRED TO THE DIVISION PURSUANT TO THIS PART 7 AND PART 8 OF THIS ARTICLE, SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS. ALL CONTRACTS ENTERED INTO BY THE DEPARTMENT OF HUMAN SERVICES PRIOR TO JULY 1, 2002, IN CONNECTION WITH THE DUTIES AND FUNCTIONS TRANSFERRED TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS PURSUANT TO THIS PART 7 AND PART 8 OF THIS ARTICLE ARE HEREBY VALIDATED, WITH THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS SUCCEEDING TO ALL THE RIGHTS AND OBLIGATIONS OF SUCH CONTRACTS. ANY APPROPRIATIONS OF FUNDS FROM PRIOR FISCAL YEARS OPEN TO SATISFY OBLIGATIONS INCURRED PURSUANT TO SUCH CONTRACTS ARE HEREBY TRANSFERRED AND APPROPRIATED TO THE DEPARTMENT FOR THE PAYMENT OF SUCH OBLIGATIONS.

28-5-702. [Formerly 26-10-103] Board of veterans affairs - sunset review - repeal. (1) ~~There is hereby created~~ The Colorado board of veterans affairs ~~to~~ AND ITS POWERS, DUTIES, AND FUNCTIONS ARE HEREBY TRANSFERRED BY A **TYPE 2** TRANSFER FROM THE DEPARTMENT OF HUMAN SERVICES TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS. THE BOARD SHALL advise and consult with the division in the administration and enforcement of this article.

(2) The board shall consist of seven members who shall be appointed by the governor and confirmed by the ~~state~~ senate, who shall be veterans who have been honorably released or separated from the armed forces of the United States, but who need not be members of a veterans service organization. THE INITIAL MEMBERS OF THE BOARD SHALL BE THE MEMBERS OF THE COLORADO BOARD OF VETERANS AFFAIRS AS SUCH BOARD EXISTED IN THE DEPARTMENT OF HUMAN SERVICES PRIOR TO JULY 1, 2002, AND THE TERMS OF SUCH MEMBERS SHALL EXPIRE AS THE ORIGINAL TERMS OF SUCH MEMBERS WERE SCHEDULED TO EXPIRE. THEREAFTER THE GOVERNOR SHALL APPOINT MEMBERS FOR TERMS OF FOUR YEARS, BEGINNING THE DAY AFTER THE EXPIRATION OF THE PRECEDING TERM.

~~(2) All regular appointments shall be for a term of four years, beginning the day after the expiration of the preceding term.~~ Vacancies occurring during any term shall be filled by the governor for the unexpired portion of the term in which they occur. If a vacancy occurs while the senate is not in session, the governor shall appoint a

qualified person to discharge the duties thereof until the next meeting of the senate, at which time the governor shall nominate a person to fill the vacancy, which nomination shall be subject to senate confirmation. Members of the board shall hold office until their successors are appointed by the governor and are confirmed by the senate. Not more than four of the members serving at any one time shall be members of the same political party.

(3) The members of the board shall serve without compensation but may be reimbursed, out of any funds appropriated to the division, for actual and necessary traveling EXPENSES and other expenses incurred in the performance of official duties.

(4) The members of the board shall select one of their members to serve as the chair of the board and one to serve as the vice-chair of the board, FOR A TERM OF TWO YEARS FOR EACH OFFICE. Such officers shall hold office at the pleasure of the board. The board shall also appoint a secretary who may or may not be a member as the board may determine. The secretary shall attend all meetings of the board, keep a full and true record of its proceedings, preserve at its general office all its books, documents, and papers, and perform such other duties as the board may prescribe.

(5) The board shall hold meetings at such times and at such places as shall be determined by it. Special meetings may be called at any time by the chair or vice-chair and shall be called at the request of any three members.

(6) (a) This section is repealed, effective July 1, 2007.

(b) Prior to said repeal, the ~~Colorado board of veterans affairs~~ shall be reviewed as provided for in section 24-34-104, C.R.S.

28-5-703. [Formerly 26-10-104] Rules and regulations - duties. (1) (a) The board shall propose for adoption by the ~~division~~ ADJUTANT GENERAL such rules and regulations, not in conflict with this article or other laws, as it may deem necessary to govern the ~~activities of the division under~~ PROGRAMS ADMINISTERED PURSUANT TO this article.

(b) ANY RULES ADOPTED BY THE BOARD OF HUMAN SERVICES IN ACCORDANCE WITH THE REQUIREMENTS OF THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S., RELATING TO COUNTY VETERANS SERVICE OFFICES AND VETERANS AFFAIRS OTHER THAN THE STATE VETERANS NURSING HOMES SHALL BE ENFORCEABLE AND SHALL BE VALID UNTIL AMENDED OR REPEALED BY THE ADJUTANT GENERAL.

(2) The division shall be responsible for the proper administration of this article. The board shall study PERIODICALLY the problems of veterans and based on such ~~study~~ STUDIES shall propose ~~for adoption by the division~~ such program OR STATUTORY CHANGES as it may deem advisable or necessary for veterans' assistance by the state of Colorado or political subdivisions thereof. The board shall make a continuing study of any program put into effect. The board shall perform such other duties as may be assigned to it by law and shall advise and assist the governor, any department in the executive branch, and the general assembly or any committee thereof in regard to veterans' matters.

(3) ON OR BEFORE DECEMBER 31, 2002, AND ON OR BEFORE DECEMBER 31 EACH YEAR THEREAFTER, THE BOARD, WITH THE ASSISTANCE OF THE DIVISION, SHALL REPORT ON THE STATUS OF ALL PROGRAMS PROVIDING SERVICES TO THE STATE'S VETERANS, INCLUDING BUT NOT LIMITED TO ANY RECOMMENDATIONS FOR CHANGES TO POLICIES, PROCEDURES, OR LAW, TO:

(a) THE GOVERNOR;

(b) THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND

(c) THE GOVERNMENT, VETERANS AND MILITARY RELATIONS, AND TRANSPORTATION COMMITTEE OF THE SENATE.

(4) THE BOARD SHALL SERVE IN AN ADVISORY CAPACITY TO:

(a) THE STATE BOARD OF HUMAN SERVICES AND THE DEPARTMENT OF HUMAN SERVICES REGARDING THE OPERATIONS AND MAINTENANCE OF STATE AND VETERANS NURSING HOMES OPERATED PURSUANT TO ARTICLE 12 OF TITLE 26, C.R.S.;

(b) THE DIVISION OF EMPLOYMENT AND TRAINING IN THE DEPARTMENT OF LABOR AND EMPLOYMENT REGARDING THE PROVISION OF SERVICES TO STATE VETERANS PURSUANT TO THE "COLORADO WORK FORCE INVESTMENT ACT", PART 2 OF ARTICLE 71 OF TITLE 8, C.R.S.;

(c) THE DEPARTMENT OF REVENUE REGARDING THE ISSUANCE OF SPECIAL LICENSE PLATES TO VETERANS AND ACTIVE OR RETIRED MILITARY PERSONNEL; AND

(d) ANY DEPARTMENT, DIVISION, BOARD, OR OTHER ENTITY THAT PROVIDES SERVICES SPECIFICALLY TO STATE VETERANS, AND ANY EXECUTIVE DIRECTOR, DIRECTOR, BOARD, OR OTHER ENTITY THAT HAS RULEMAKING AUTHORITY PURSUANT TO STATE LAW REGARDING PROPOSED RULES THAT ARE DIRECTED SPECIFICALLY TO VETERANS.

28-5-704. [Formerly 26-10-105] Departments to cooperate. (1) To effectuate the purpose of this article, the governor may direct any department, division, board, bureau, commission, or agency of the state, or ~~of~~ any political subdivision thereof, to:

(a) Cooperate with and assist and advise the division AND THE BOARD in the performance of ~~its~~ THEIR duties and functions under this article and to provide such other assistance and data as will enable the division AND THE BOARD to properly carry out ~~its~~ THEIR activities and effectuate the purposes of this article; AND

(b) COORDINATE WITH, SEEK ADVICE FROM, OR UTILIZE AS A RESOURCE THE DIVISION AND THE BOARD IN IMPLEMENTING PROGRAMS THAT PROVIDE SERVICES SPECIFICALLY TO STATE VETERANS.

28-5-705. [Formerly 26-10-106] Duties. (1) The division, in accordance with its rules, ~~and regulations~~, shall perform the following duties and functions:

(a) (I) Formulate, establish, and supervise a plan and standard procedures to

further prompt and efficient service to all veterans in the state of Colorado on a uniform basis, whether by the division or by any county veterans service office; ~~to~~

(II) Establish and maintain liaison with all county veterans service officers and advise them of such plan and procedures; ~~to~~

(III) Make reasonable requests of such county veterans service officers for their cooperation in the execution of such plan and procedures and in the handling of veterans' cases and other matters; ~~to~~

(IV) Maintain liaison with the veterans administration and other appropriate agencies of the federal government; ~~to~~

(V) Provide all county veterans service officers with pertinent information, suggestions, forms, rulings, and other material in such form and in such manner as the division may deem appropriate to assist all county veterans service officers in the performance of their duties; ~~to~~

(VI) Distribute to such county veterans service officers any available bulletins, manuals, pamphlets, or other appropriate material, prepared either by the division or elsewhere, for the purposes stated in this section; and ~~to~~

(VII) Do such additional things, including the holding of conferences, whenever advisable, with the county veterans service officers either in their counties or in the office of the division or elsewhere and either singly or in groups, as the division may deem advisable to assist such officers in the proper performance of their duties and to keep them properly advised of current developments in the veterans' field;

(b) Render personal service to members and former members, or the surviving spouses, administrators, executors, conservators, guardians, or heirs of members or former members, of the Colorado state defense force and the Colorado national guard in any claim they may have against the state or federal government;

(c) Assist all discharged members of the armed forces of the United States, the surviving spouses, administrators, executors, conservators, guardians, or heirs of any such veterans, or any other persons who may have proper claims by filing and prosecuting such claims on behalf of such persons for insurance, pensions, compensation, hospitalization, vocational training, education, loans, readjustment allowances, or any other benefits which such persons may be or may become entitled to receive under any of the laws of the United States, the state of Colorado, or any other state by reason of such service;

(d) Cooperate with and assist veterans' organizations, county veterans service officers, veterans' advisory groups, and all other organizations, now in existence or formed on or after July 1, 1973, which provide assistance to those persons mentioned in paragraph (c) of this subsection (1);

(e) Perform services in this state for the veterans administration on a contractual, grant, or other basis, and perform such other duties and render such other services in furtherance of the purposes of this article or any other law in providing reasonable and proper assistance to veterans;

(f) Establish a training and certification program for newly appointed county veterans service officers. Such program shall be presented to the board for approval prior to implementation or modification.

(g) Prepare, develop, construct, and maintain a state military veterans' cemetery pursuant to ~~section 26-10-110~~ SECTION 28-5-708 and seek reimbursement from the federal department of veterans affairs for all allowable costs for such project as permitted by federal law.

28-5-706. [Formerly 26-10-107] Contributions to division - veterans private contributions fund - created. Any city, county, or political subdivision of the state or any association or individual may contribute funds, services, or facilities to the ~~division~~ DEPARTMENT, and the ~~executive director~~ ADJUTANT GENERAL may accept AND USE such funds, services, or facilities FOR THE PURPOSE OR PURPOSES INTENDED BY THE CONTRIBUTOR; EXCEPT THAT NO FUND, SERVICE, OR FACILITY SHALL BE ACCEPTED IF THE CONDITIONS ATTACHED THERETO REQUIRE THE USE OR EXPENDITURE THEREOF IN A MANNER CONTRARY TO LAW. ANY SAID FUNDS SHALL BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE VETERANS PRIVATE CONTRIBUTIONS FUND, WHICH FUND IS HEREBY CREATED.

28-5-707. [Formerly 26-10-108] Assistance to county veterans service officers. (1) (a) The division shall provide satisfactory supervision, direction, and assistance to all county veterans service officers and shall provide such services and facilities to the county veterans service officers as may be determined by the division to be necessary. Out of any moneys appropriated by the general assembly to the division for veterans' affairs purposes, the division is authorized to issue vouchers for the semiannual payment to the general fund of each county, to be disbursed upon the authority of the county commissioners thereof, only for the purposes of this ~~article and of article 9~~ PART 7 AND PART 8 of this ~~title~~ ARTICLE, of an amount equal to the amount such county commissioners may have authorized to be disbursed out of other moneys in such county general fund for such purposes for that period. The general assembly shall annually establish in the general appropriations bill the rate of state-funded payments for full-time and part-time COUNTY veterans service officers; except that, if a county is receiving payments under paragraph (b) of this subsection (1) for a veterans service office established for adjacent counties, the payment shall be the total of the semiannual payments for the counties that have jointly formed the veterans service office.

(b) If adjacent counties jointly establish a veterans service office for the counties pursuant to ~~section 26-9-101(2)~~ SECTION 28-5-801 (2), the division may issue a voucher to the general fund of the county containing the veterans service office in an amount equal to the total of the semiannual payments that would have been provided to each of such counties under paragraph (a) of this subsection (1).

(2) Such semiannual payments shall be made only on application by such county commissioners to the division, which application shall state and certify the amount such county commissioners have authorized to be disbursed for such purposes out of other moneys in such county general fund for the period covered by the application.

28-5-708. [Formerly 26-10-110] Western slope veterans' cemetery - fund - rules. (1) ~~Repealed.~~

~~(2)~~ (a) There is hereby established in the state treasury the western slope military veterans' cemetery fund, referred to in this section as the "fund". The division is authorized to accept gifts, grants, contributions, and donations for the purposes of this section. The fund shall consist of such moneys received through gifts, GRANTS, CONTRIBUTIONS, OR donations, ~~contributions, or grants~~ from any person or entity, and any moneys appropriated to the fund by the general assembly. Any interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

~~(b) (Deleted by amendment, L. 99, p. 781, § 3, effective May 21, 1999.)~~

~~(c)~~ (b) Subject to available appropriations, the division may contract for professional services necessary for the implementation of this section.

~~(3) (Deleted by amendment, L. 99, p. 781, § 3, effective May 21, 1999.)~~

~~(4)~~ (2) (a) The general assembly hereby authorizes the establishment and maintenance of a state military veterans' cemetery for the western slope, referred to in this section as the "cemetery". The division is directed to prepare, develop, construct, and maintain such cemetery at the site described in paragraph (b) of ~~subsection (5)~~ SUBSECTION (3) of this section. The division may enter into contracts or agreements with any person or public or private entity to prepare, develop, construct, operate, and maintain such cemetery. The cemetery shall be for the purpose of providing for the interment of Colorado residents who are military veterans and their spouses and dependents, as determined by the division. In addition, ~~the state board of human services~~ ADJUTANT GENERAL by rule may permit the interment of other veterans and their spouses and dependents in the cemetery and permit the division to assess a reasonable fee for the interment of such non-Colorado residents. All such fees collected shall be credited to the ~~cemetery~~ fund created pursuant to paragraph (a) of ~~subsection (2)~~ SUBSECTION (1) of this section. ~~The state board of human services~~ ADJUTANT GENERAL, in consultation with the board, shall promulgate such rules as may be necessary to establish and maintain the cemetery in compliance with applicable state and federal statutes and rules.

(b) The general assembly may appropriate moneys from the general fund to the fund for the implementation of this section, including but not limited to the payment of costs associated with the operation and maintenance of the cemetery.

(c) (I) If the entire general fund appropriation made to the department of human services, for allocation to the division of veterans affairs, for the fiscal year that commenced on July 1, 1999, is not needed to pay the costs for design and construction of the cemetery, the remainder of such appropriation may be used PRIOR TO JULY 1, 2002, by the ~~division~~ DEPARTMENT OF HUMAN SERVICES AND ON OR AFTER JULY 1, 2002, BY THE DEPARTMENT to pay any costs associated with the operation and maintenance of the cemetery without further appropriation by the general assembly.

(II) ANY APPROPRIATION MADE ON AND AFTER JULY 1, 2002, FOR THE OPERATION AND MAINTENANCE OF THE CEMETERY SHALL BE APPROPRIATED TO THE DEPARTMENT

OF MILITARY AND VETERANS AFFAIRS.

~~(5)~~ (3) (a) The general assembly hereby finds, determines, and declares that any use of the property described in paragraph (b) of this ~~subsection~~ (5) SUBSECTION (3) as the cemetery is for a public purpose expressly authorized by the general assembly and therefore permissible under any grant of right-of-way applicable to such property executed by the state board of land commissioners.

(b) The division, in preparing, developing, constructing, and maintaining the cemetery, may use for such purposes a parcel consisting of approximately twenty acres of unimproved property within the eastern portion of the real property known as the Grand Junction regional center and shall enter into all necessary agreements to secure the appropriate property rights for such parcel.

~~(6)~~ (4) The division is hereby authorized to provide for surveys, engineering studies, conceptual and architectural plans, environmental impact studies, and other similar preliminary design and construction work as part of the pre-application for funding approval by the federal department of veterans affairs for the cemetery. The division is authorized to seek full reimbursement for such pre-application and design work from the federal department of veterans affairs.

~~(7)~~ (5) The general assembly shall appropriate annually from the fund to the department, ~~of human services~~, for allocation to the division, for any costs associated with the operation and maintenance of the cemetery and for the implementation of this section.

28-5-709. [Formerly 26-10-111] Colorado state veterans trust fund - created - report. (1) (a) There is hereby created in the state treasury the Colorado state veterans trust fund that shall consist of the moneys appropriated thereto pursuant to subsection (2) of this section. In addition, the state treasurer may credit to the trust fund any public or private gifts, grants, or donations received PRIOR TO JULY 1, 2002, by the department of human services OR, ON OR AFTER JULY 1, 2002, BY THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS for implementation of the purposes specified in this subsection (1).

(b) The ~~funds~~ MONEYS in the trust fund shall be used for:

(I) Capital improvements or needed amenities for existing or future state veterans nursing homes;

(II) Costs incurred by existing or future state veterans cemeteries;

(III) Veterans outreach programs administered by the division; and

(IV) Veterans programs operated by nonprofit veterans organizations that meet criteria adopted by the board and that are selected by the board as grant recipients.

(c) The division may retain up to five percent of the amount annually appropriated from the trust fund for the actual costs incurred by the division and the board in implementing the provisions of this article. Notwithstanding the provisions of section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in

the trust fund shall be credited to the trust fund. All unexpended and unencumbered moneys remaining in the trust fund at the end of any fiscal year shall remain in the trust fund and shall neither revert to the general fund nor be transferred to the tobacco litigation settlement trust fund created in section 24-22-115.5, C.R.S., nor be transferred or credited to any other fund.

(2) (a) Beginning in fiscal year 2000-01 and for each fiscal year thereafter so long as the state receives moneys pursuant to the master settlement agreement, the general assembly shall annually appropriate to the trust fund one percent of the total amount received by the state pursuant to the provisions of the master settlement agreement, other than attorney fees and costs, during the preceding fiscal year; except that the amount so appropriated to the trust fund in any fiscal year shall not exceed one million dollars. The general assembly shall appropriate the amount specified in this subsection (2) from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115, C.R.S.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), for the fiscal year in which the first payment of moneys pursuant to the master settlement agreement is received, the percentage appropriated to the trust fund shall be calculated on the total amount of moneys received by the state pursuant to the master settlement agreement, other than attorney fees and costs, during that fiscal year, minus thirty-three million dollars.

(3) All of the funds appropriated to the trust fund pursuant to subsection (2) of this section in fiscal year 2000-01 shall be credited to the trust fund and retained as principal in the trust fund. For fiscal years 2001-02 and fiscal years thereafter, seventy-five percent of the amount of annual appropriations made pursuant to subsection (2) of this section shall be credited to the trust fund and retained as principal in the trust fund. For fiscal years 2001-02 and fiscal years thereafter, twenty-five percent of the amount of annual appropriations made pursuant to subsection (2) of this section and ONE HUNDRED PERCENT OF any interest earned on the principal in the trust fund shall be subject to annual appropriation by the general assembly and may be allocated by the board for the purposes outlined in subsection (1) of this section.

(4) (a) Funds shall be allocated out of the trust fund using the following process:

(I) The director of the state and veterans nursing homes or the director of the division of veterans affairs shall submit to the board a written request for funds to be used for the purposes described in subsection (1) of this section; or

(II) A nonprofit veterans organization, in compliance with the procedures and timelines adopted by the board, shall submit to the board a grant application, in a form adopted by the board, requesting funding for a veterans program.

(b) The board shall vote on each request for funds and on each grant application submitted by a nonprofit veterans organization that meets the criteria established by the board. A majority vote shall be sufficient to approve an allocation of ~~funds~~ MONEYS out of the trust fund.

~~(4.5)~~ (5) The board shall adopt guidelines that address, at a minimum, the

following issues:

(a) The form of an application for use by nonprofit veterans organizations in applying for grants pursuant to this section;

(b) Criteria for identifying nonprofit veterans organizations that may apply for and receive grants pursuant to this section;

(c) Criteria for selecting appropriate veterans programs to receive grants pursuant to this section;

(d) The term and amounts of grants awarded to nonprofit veterans organizations pursuant to this section; and

(e) Standards for determining the effectiveness of veterans programs that receive grants pursuant to this section.

~~(4.7)~~ (6) The ~~division~~ DEPARTMENT may contract with one or more private OR PUBLIC entities for program monitoring and evaluation of any veterans program operated by a nonprofit veterans organization that receives funding pursuant to this section. The board may allocate funds to the division for the costs incurred in entering into such contracts.

~~(5)~~ (7) (a) The board shall prepare a report evaluating the implementation of this section, including the number and type of improvements or additions to nursing homes that have been made, the number and type of improvements to veterans cemeteries, the number of veterans served through the veterans outreach program, the number and types of veterans programs operated by nonprofit veterans organizations that receive grants pursuant to this section, and the results achieved as a result of allocations made out of the trust fund.

(b) The department shall submit the report to the department of public health and environment for inclusion in the report prepared by ~~said~~ THE department OF PUBLIC HEALTH AND ENVIRONMENT pursuant to section 25-1-108.5 (3), C.R.S.

PART 8 VETERANS SERVICE OFFICE AND OFFICERS

28-5-801. [Formerly 26-9-101] Establishment of veterans service offices.

(1) The board of county commissioners of each county in this state shall establish a county veterans service office and shall appoint a county veterans service officer for such county, and such board of county commissioners may also appoint any assistant and such clerical help as may be deemed necessary, each at such compensation as shall be fixed by such board, together with the necessary and actual traveling and other expenses incurred in their work as shall be approved by such board of county commissioners and such other expenses as such board may deem necessary for the proper operation of such office, payable monthly out of the county general fund in the manner provided by law. The board of county commissioners, in its discretion, may appoint any county officer, official, or employee as such county veterans service officer or as such assistant, if qualified to serve as such under the provisions of ~~section 26-9-102~~ SECTION 28-5-802, or as clerical help to such county veterans

officer, at such additional compensation for such additional duties as shall be fixed by the board of county commissioners.

(2) The boards of county commissioners of adjacent counties may act jointly in establishing a veterans service office for such counties and in appointing a veterans service officer and an assistant and such necessary clerical help as may be deemed necessary to operate such office for such counties, at such compensation as may be fixed by the joint action of the boards of county commissioners joining in the appointment of such officer and assistant and clerical help, together with the actual and necessary expenses incurred in the conduct of their work, as shall be approved by such boards of county commissioners. The salaries and expenses and all other jointly approved expenses necessary for the proper operation of such office shall be paid monthly by the boards of county commissioners out of their respective county general funds in the manner provided by law, each county bearing its share thereof in the proportion that the population of each county bears to the total population of the counties combining to establish such office.

28-5-802. [Formerly 26-9-102] Qualifications - term of office. (1) ~~Such~~ THE county veterans service officer or assistant at the time of appointment, shall be a resident of the state, shall have served in the United States army, air force, navy, marine corps, or coast guard, or any auxiliary branch thereof and shall have been honorably discharged therefrom or shall be an officer released from active duty with the armed forces and placed on inactive duty therein. Before such appointments shall be made, the board of county commissioners making such appointments shall have sought the advice and counsel of the chief officer of each post of the regularly established and existing veterans organizations of the county wherein such officer or assistant is to serve as to the qualifications and experience of the applicant for such position. Such appointee shall be well-qualified based on his OR HER education and experience to perform the duties of county veterans service officer. The division of ~~veterans affairs~~ shall recommend education and experience qualifications for the position of county veterans service officer.

(2) Such appointments shall be for the term of two years. At the expiration of such term or in case of a vacancy, the board of county commissioners making the appointments may either reappoint the present incumbents to the positions of county veterans service officer or assistant, or may consider new applicants and make appointments of other applicants as such county veterans service officer or assistant in the manner specified in this article.

28-5-803. [Formerly 26-9-103] Duties. It is the duty of the COUNTY veterans service officer and HIS OR HER assistant to assist ~~residents~~ ANY RESIDENT of the state of Colorado who ~~served honorably in the United States army, air force, coast guard, navy, marine corps, or any other armed service of the United States~~ IS A VETERAN, or ~~the~~ THEIR surviving spouse, administrator, executor, guardian, conservator, or heir of any ~~such~~ SAID veteran, or any other person who may have proper claim, by the filing of claims for insurance, pensions, compensation for disability, hospitalization, vocational training, or any other benefits which such person may be or may have been entitled to receive under the laws of the United States or the state of Colorado by reason of such service.

28-5-804. [Formerly 26-9-104] Cooperation with division of veterans affairs.

~~Such~~ THE county veterans service officer shall cooperate with the division of veterans affairs, its officers and employees, and other national, state, or county veterans service officers in the performance of his OR HER duties. He OR SHE, on request, shall assist the division of veterans affairs in every possible and reasonable way, including the rendering of any reports requested by it THE DIVISION and the handling or processing of any veterans cases or other matters according to standard procedures established by the division of veterans affairs in furtherance of efficient and prompt service to all veterans in the state of Colorado on a uniform basis. Such officer shall always work in the best interest of his or her clients in an attempt to maximize the amount of federal veteran benefits that they receive. Additionally, the county veterans service officer shall undertake programs and engage in activities to reduce state public assistance expenditures as directed by the division.

28-5-805. [Formerly 26-9-105] Office space and supplies. The board of county commissioners shall furnish the county veterans service officer and assistant with office space and necessary supplies.

SECTION 4. Repeal of provisions being relocated in this act. Article 9 of title 26, 26-10-101, 26-10-103, 26-10-104, 26-10-105, 26-10-106, 26-10-107, 26-10-108, 26-10-110, and 26-10-111, Colorado Revised Statutes, are repealed.

SECTION 5. Repeal of provisions not being relocated in this act. 26-10-102 and 26-10-109, Colorado Revised Statutes, are repealed.

SECTION 6. Article 72 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

8-72-112. Division - reporting - veterans programs. THE DIVISION, BY SEPTEMBER 30, 2002, AND ON OR BEFORE SEPTEMBER 30 EACH YEAR THEREAFTER, SHALL PROVIDE SUFFICIENT INFORMATION TO ENABLE THE COLORADO BOARD OF VETERANS AFFAIRS TO COMPLETE THE REPORT REQUIRED BY SECTION 28-5-703 (3), C.R.S.

SECTION 7. The introductory portion to 22-33-204 (1), Colorado Revised Statutes, is amended to read:

22-33-204. Services for at-risk students - agreements with state agencies and community organizations. (1) Each school district, regardless of the number of students expelled by the district, may enter into agreements with appropriate local governmental agencies and, to the extent necessary, with the managing state agencies, including but not limited to the department of human services and the department of public health and environment, with community-based nonprofit and faith-based organizations, with nonpublic, nonparochial schools, with the department of military AND VETERANS affairs, and with public and private institutions of higher education to work with the student's parent or guardian to provide services to any student who is identified as being at risk of suspension or expulsion or who has been suspended or expelled and to the student's family. Any services provided pursuant to an agreement with a nonpublic, nonparochial school shall be subject to approval by the state board of education pursuant to section 22-2-107, C.R.S. Services provided through such agreements may include, but are not limited to:

SECTION 8. 22-33-205 (1) (b), Colorado Revised Statutes, is amended to read:

22-33-205. Services for expelled and at-risk students - grants - criteria.

(1) (b) In addition to school districts, charter schools, alternative schools within school districts, nonpublic, nonparochial schools, boards of cooperative services, and pilot schools, the department of military AND VETERANS affairs may apply for a grant pursuant to the provisions of this section to assist the department with a program to provide educational services to expelled students; except that nonpublic, nonparochial schools may only apply for a grant pursuant to the provisions of this section to fund educational services that have been approved by the state board pursuant to section 22-2-107, C.R.S. The department shall follow application procedures established by the department of education pursuant to subsection (2) of this section. The department of education shall determine whether to award a grant to the department of military AND VETERANS affairs and the amount of the grant.

SECTION 9. 23-5-111.4 (2) (a), (2) (c), (4), (5), and (6), the introductory portions to 23-5-111.4 (7) and (7) (a), and 23-5-111.4 (7) (b) and (9), Colorado Revised Statutes, are amended to read:

23-5-111.4. Tuition for members of the national guard. (2) (a) Any person who is a member of the Colorado national guard, upon being accepted for enrollment at any designated institution of higher education, shall be permitted to pursue studies leading toward a bachelor's degree, a postgraduate degree, an associate degree, or a certificate of completion with at least fifty percent but not more than one hundred percent of the cost of tuition paid by the department of military AND VETERANS affairs, subject to available appropriations, for so long as such person remains a member of the Colorado national guard, but such tuition payments shall not be made for more than one hundred thirty-two semester hours or one hundred ninety-eight quarter hours or for more than eight years.

(2) (c) In providing the tuition assistance to members pursuant to paragraph (a) of this subsection (2), the department of military AND VETERANS affairs is encouraged to consider providing assistance on a priority basis to newly-enlisted members in their first term of service and who enlist in those military specialties that are experiencing shortages as determined by the department.

(4) If any member of the Colorado national guard is accepted for enrollment at any designated institution of higher education and such member has not been classified as an in-state student for tuition purposes pursuant to article 7 of this title, the amount paid by the department of military AND VETERANS affairs to the designated institution of higher education pursuant to subsection (2) of this section shall be based on the amount of in-state tuition for that institution.

(5) Each individual member of the Colorado national guard receiving tuition assistance as provided in this section shall obtain certification from the designated institution of higher education attesting to his current satisfactory academic standing at such designated institution of higher education, as determined by rules and regulations established pursuant to subsection (7) of this section, and present such certificate to the department of military AND VETERANS affairs at the time of enrollment for each semester or quarter for which tuition assistance is requested. No tuition assistance shall be granted without such certification.

(6) Any person who fails to serve the required one-year period in the Colorado national guard for each semester of tuition assistance granted, in violation of such person's agreement under subsection (2) of this section, shall be required to repay to the department of military AND VETERANS affairs the tuition assistance granted for each such year and any and all collection fees incurred by the department of military AND VETERANS affairs. Any such repayment of tuition assistance shall be credited to the Colorado national guard tuition fund created in subsection (9) of this section.

(7) The department of military AND VETERANS affairs shall promulgate rules for the administration of tuition assistance as provided in this section, including, but not limited to, the following:

(a) Criteria for the eligibility of a member of the national guard for such tuition assistance. In establishing this criteria, the department of military AND VETERANS affairs shall include, but not be limited to, consideration of the following:

(b) Procedures to be followed by designated institutions of higher education in reporting the member's academic standing and in providing timely billing to the department of military AND VETERANS affairs;

(9) (a) There is hereby created in the state treasury the Colorado national guard tuition fund which shall be administered by the department of military AND VETERANS affairs and which shall consist of all moneys which may be appropriated thereto by the general assembly or which may be otherwise made available to it by the general assembly. Moneys "otherwise made available" shall include any repayment of tuition assistance made pursuant to subsection (6) of this section. The moneys in the fund are hereby continuously appropriated for the payment of tuition assistance as provided in this section. Any moneys not expended at the end of the fiscal year shall remain in the fund and shall not be transferred to or revert to the general fund of the state.

(b) An audit of the Colorado national guard tuition fund shall be made during the department of military AND VETERANS affairs postaudit pursuant to section 2-3-103, C.R.S.

SECTION 10. 24-1-110 (1) (q), Colorado Revised Statutes, is amended to read:

24-1-110. Principal departments. (1) In accordance with the provisions of section 22 of article IV of the state constitution, all executive and administrative offices, agencies, and instrumentalities of the executive department of the state government and their respective functions, powers, and duties, except as otherwise provided by law, are allocated among and within the following principal departments created by this article:

(q) Department of military AND VETERANS affairs;

SECTION 11. Repeal. 24-1-120 (6) (a), Colorado Revised Statutes, is repealed as follows:

24-1-120. Department of human services - creation. (6) The department shall consist of the following divisions:

~~(a) The division of veterans affairs and the Colorado board of veterans affairs. Said division and board and their powers, duties, and functions are transferred by a **type 2** transfer to the department of human services.~~

SECTION 12. 24-1-127 (1) and (2), the introductory portion to 24-1-127 (3), and 24-1-127 (3) (a), (3) (b), and (3) (d), Colorado Revised Statutes, are amended, and the said 24-1-127 (3) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

24-1-127. Department of military and veterans affairs - creation. (1) There is hereby created a department of military AND VETERANS affairs, the head of which shall be the adjutant general who shall be appointed by the governor pursuant to law.

(2) The office of the adjutant general, created by part 1 of article 3 of title 28, C.R.S., and its powers, duties, and functions are transferred by a **type 2** transfer to the department of military AND VETERANS affairs.

(3) The department of military AND VETERANS affairs shall consist of the following divisions:

(a) The Colorado national guard, created by part 2 of article 3 of title 28, C.R.S. Its powers, duties, and functions are transferred by a **type 2** transfer to the department of military AND VETERANS affairs as a division thereof.

(b) The Colorado department of civil air patrol, created by article 1 of title 28, C.R.S. Its powers, duties, and functions are transferred by a **type 1** transfer to the department of military AND VETERANS affairs as the Colorado division of the civil air patrol.

(d) The Colorado state defense force, when organized by the governor pursuant to article 4 of title 28, C.R.S. If organized, its powers, duties, and functions are transferred by a **type 2** transfer to the department of military AND VETERANS affairs as a division thereof.

(f) THE DIVISION OF VETERANS AFFAIRS, CREATED BY PART 7 OF ARTICLE 5 OF TITLE 28, C.R.S. ITS POWERS, DUTIES, AND FUNCTIONS ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS AS A DIVISION THEREOF.

(g) THE COLORADO BOARD OF VETERANS AFFAIRS, CREATED BY SECTION 28-5-702, C.R.S. ITS POWERS, DUTIES, AND FUNCTIONS ARE TRANSFERRED BY A **TYPE 2** TRANSFER TO THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS AS A DIVISION THEREOF.

SECTION 13. 24-1-128.7 (3) (b), Colorado Revised Statutes, is amended to read:

24-1-128.7. Department of transportation - creation. (3) The department of transportation shall consist of the following divisions:

(b) Aeronautics division, the head of which shall be the director of the aeronautics division. The aeronautics division and the office of the director thereof, created by

article 10 of title 43, C.R.S., and their powers, duties, and functions are transferred by a **type 1** transfer to the department of transportation. The powers, duties, and functions of the division of aviation of the department of military AND VETERANS affairs are transferred by a **type 1** transfer to the department of transportation and allocated to the aeronautics division.

SECTION 14. 24-34-104 (38) (b), Colorado Revised Statutes, is amended to read:

24-34-104. General assembly review of regulatory agencies and functions for termination, continuation, or reestablishment. (38) The following agencies, functions, or both, shall terminate on July 1, 2007:

(b) The Colorado board of veterans affairs, created by ~~section 26-10-103~~ SECTION 28-5-702, C.R.S.;

SECTION 15. 24-46.1-101 (2) (j), Colorado Revised Statutes, is amended to read:

24-46.1-101. Economic development central information system - information - availability. (2) The following state departments and agencies may identify the information set forth in subsection (3) of this section that the department or agency provides for general public use:

(j) The department of military AND VETERANS affairs;

SECTION 16. 24-75-1104 (1) (f) and (2) (c), Colorado Revised Statutes, are amended to read:

24-75-1104. Use of settlement moneys - programs. (1) For the 2000-01 fiscal year and for each fiscal year thereafter, the following programs shall receive appropriations in the specified amounts from the settlement moneys annually received by the state:

(f) The Colorado state veterans trust fund, created in ~~section 26-10-111~~ SECTION 28-5-709, C.R.S., shall receive one percent of the total amount of settlement moneys annually received by the state; except that the amount received in any fiscal year shall not exceed one million dollars;

(2) The general assembly shall appropriate the amounts specified in subsection (1) of this section from moneys credited to the tobacco litigation settlement cash fund created in section 24-22-115. Any amount of unencumbered settlement moneys remaining in the fund of any program specified in subsection (1) of this section at the end of any fiscal year shall be transferred to the tobacco litigation settlement trust fund created in section 24-22-115.5; except that unencumbered settlement moneys shall not be transferred from the following funds:

(c) The Colorado state veterans trust fund created in ~~section 26-10-111~~ SECTION 28-5-709, C.R.S.;

SECTION 17. 24-80-1401 (2), Colorado Revised Statutes, is amended to read:

24-80-1401. Colorado veterans' monument preservation trust fund - committee. (2) There is hereby created a preservation trust committee for the purpose of overseeing and making allocations out of the trust fund. The preservation trust committee shall be comprised of four members. One member shall be a representative or designee of the Colorado board of veterans affairs, created in ~~section 26-10-103~~ SECTION 28-5-702, C.R.S., one member shall be a member or designee of the state capitol building advisory committee, created in section 24-82-108, one member shall be a veteran appointed jointly by the speaker of the house of representatives and the president of the senate, and one member shall be a representative of the division of central services in the department of personnel, created in part 1 of article 30 of this title, that oversees real estate services, who shall be an ex-officio nonvoting member.

SECTION 18. Repeal. 26-1-201 (1) (q) and (1) (r), Colorado Revised Statutes, are repealed as follows:

26-1-201. Programs administered - services provided - department of human services. (1) This section specifies the programs to be administered and the services to be provided by the department of human services. These programs and services include the following:

(q) ~~Provisions regarding veterans service offices and officers, as specified in article 9 of this title;~~

(r) ~~Veterans affairs, as specified in article 10 of this title;~~

SECTION 19. 26-12-112, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

26-12-112. Powers and duties of state department. (4) THE STATE DEPARTMENT, BY OCTOBER 31, 2002, AND ON OR BEFORE OCTOBER 31 EACH YEAR THEREAFTER, SHALL PROVIDE SUFFICIENT INFORMATION TO ENABLE THE COLORADO BOARD OF VETERANS AFFAIRS TO COMPLETE THE REPORT REQUIRED BY SECTION 28-5-703 (3), C.R.S.

SECTION 20. 28-1-101 (1), Colorado Revised Statutes, is amended to read:

28-1-101. Colorado division of civil air patrol - publication - benefits. (1) There is hereby created and established within the department of military AND VETERANS affairs the Colorado division of civil air patrol, the head of which shall be the duly appointed commanding officer of the civil air patrol, Colorado wing. Warrants shall be drawn against appropriations made for the division upon vouchers issued and signed by the commanding officer of said civil air patrol, Colorado wing.

SECTION 21. 28-3-106 (1) (a) and (1) (s) (I), Colorado Revised Statutes, are amended, and the said 28-3-106 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

28-3-106. Powers and duties of adjutant general - repeal. (1) The adjutant general has the following powers and duties:

(a) The adjutant general shall be the chief of staff to the commander in chief and the administrative head of the department of military AND VETERANS affairs. Whenever any law of this state refers to the military department, said law shall be construed as referring to the department of military AND VETERANS affairs.

(s) (I) If, in the judgment of the adjutant general, any real estate which has been acquired for military purposes is unsuitable for military purposes, the adjutant general, by and with the approval of the governor, in writing, has authority to sell, trade, or otherwise dispose of such real estate, but, except as otherwise provided by subparagraph (II) of this paragraph (s), such real estate shall not be disposed of for less than its appraised value. The appraised value of such real estate shall be determined by an appraiser who is registered, licensed, or certificated pursuant to part 7 of article 61 of title 12, C.R.S., and who is selected by the governor from a list of three qualified individuals submitted to the governor by the department. If the governor does not select an appraiser within thirty days after the list is submitted, the department is authorized to select an appraiser from the list. Appraisers shall be selected for the list, and their fees shall be negotiated in accordance with the standards established by part 14 of article 30 of title 24, C.R.S. The adjutant general, by and with the advice and approval of the governor, is authorized to lease any property belonging to the department of military affairs when it is not needed for the immediate use of the department. All conveyances which are required for the purpose of this section shall be executed by the governor under the seal of the state, and the proceeds of all sales, trades, or other disposition shall be placed in an account to be invested by the state treasurer as provided in section 24-36-113, C.R.S. Any interest earned on the investment or deposit of such proceeds shall remain in such account and shall not be credited to the general fund or any other fund of the state. Said proceeds and any interest thereon shall be disbursed by authority of the adjutant general, subject to appropriation by the general assembly, only for the acquisition, construction, repair, and improvements of armories throughout the state. Prior to disposing of any real property pursuant to the provisions of this paragraph (s), the adjutant general shall submit a report to the capital development committee which describes such real property, the maintenance costs related to such real property, the current value of such real property, any conditions or limitations which may restrict the use of such real property, and the terms of the proposed disposition of such real property. The capital development committee shall review any such report which is submitted to the capital development committee and shall provide recommendations to the adjutant general concerning the proposed real property disposition within thirty days after the date of receipt of such report. The adjutant general shall not complete any such real property disposition without considering any recommendations of the capital development committee which are provided within such thirty-day period.

(w) (I) ON OR BEFORE SEPTEMBER 30, 2003, THE ADJUTANT GENERAL, WITH THE ASSISTANCE OF THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS, SHALL PREPARE A REPORT FOR THE GOVERNOR, THE GOVERNMENT, VETERANS AND MILITARY RELATIONS, AND TRANSPORTATION COMMITTEE OF THE SENATE, AND THE STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEE OF THE HOUSE OF REPRESENTATIVES CONCERNING THE CREATION OF THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS IN HOUSE BILL 02-1413, ENACTED DURING THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY, AND THE STATUS OF THE IMPLEMENTATION OF SAID DEPARTMENT.

(II) THIS PARAGRAPH (w) IS REPEALED, EFFECTIVE JANUARY 1, 2004.

SECTION 22. 28-3-1207, Colorado Revised Statutes, is amended to read:

28-3-1207. Cost of medals and lapel buttons. The necessary amounts to defray the costs of providing the medals and lapel buttons authorized by this article shall be deemed a proper charge against the appropriation for the support of the department of military affairs.

SECTION 23. 28-3.1-102 (20), Colorado Revised Statutes, is amended to read:

28-3.1-102. Definitions. As used in this article, unless the context otherwise requires:

(20) "State military forces" means the national guard of this state, as defined in ~~section 28-3-101 (5)~~ SECTION 28-3-101 (12), and any other militia or military forces organized under the laws of the state.

SECTION 24. 28-3.1-601 (3), Colorado Revised Statutes, is amended to read:

28-3.1-601. Courts of inquiry. (3) Any person subject to this code whose conduct is subject to inquiry shall be designated as a party. Any person subject to this code or employed in the department of military affairs who has a direct interest in the subject of inquiry has the right to be designated as a party upon request to the court. Any person designated as a party shall be given due notice and has the right to be present, to be represented by counsel, to cross-examine witnesses, and to introduce evidence.

SECTION 25. 39-22-1902, Colorado Revised Statutes, is amended to read:

39-22-1902. Voluntary contribution designation - procedure. For income tax years commencing on or after January 1, 2001, but prior to January 1, 2004, each Colorado state individual income tax return form shall contain a line whereby each individual taxpayer may designate the amount of the contribution, if any, such individual wishes to make to the western slope military veterans' cemetery fund created in ~~section 26-10-110 (2) (a)~~ SECTION 28-5-708 (1) (a), C.R.S. Such moneys credited to the fund shall be used for the operation and maintenance of a western slope military veterans' cemetery pursuant to ~~section 26-10-110 (2) (a)~~ SECTION 28-5-708, C.R.S.

SECTION 26. 39-22-1903, Colorado Revised Statutes, is amended to read:

39-22-1903. Contributions credited to the fund - appropriation. The department of revenue shall determine annually the total amount designated pursuant to section 39-22-1902 and shall report such amount to the state treasurer and to the general assembly. The state treasurer shall credit such amount to the western slope military veterans' cemetery fund created in ~~section 26-10-110 (2) (a)~~ SECTION 28-5-708 (1) (a), C.R.S.

SECTION 27. 42-3-117 (1) and (6), Colorado Revised Statutes, are amended to read:

42-3-117. Special plates - active and retired members of the Colorado national guard. (1) The department is directed to issue one set of special license plates for either a passenger car or a truck that does not exceed six thousand five hundred pounds empty weight owned by any active or retired member of the Colorado national guard, as defined in ~~section 28-3-101(5)~~ SECTION 28-3-101 (12), C.R.S., in accordance with the provisions of this section for the year 1988 and for each year thereafter.

(6) All applications for special license plates provided for in this section shall be made directly to the department upon expiration of any current vehicle registration and shall include such information as the department may require. At the time of making such application, the applicant shall submit to the department a proof of eligibility form prepared by the department of military AND VETERANS affairs verifying active or retired status. If the owner of a vehicle registered pursuant to the provisions of this section ceases to be an active member of the Colorado national guard and has not qualified for retirement from the Colorado national guard, such person shall return the special license plates to the department upon expiration of the registration. Upon retiring from the Colorado national guard, any person wishing to retain the special license plates issued to the person pursuant to the provisions of this section shall submit to the department a verification of retired status that is issued by the department of military AND VETERANS affairs to establish eligibility for retention of the plates. A retired member of the Colorado national guard is required to verify retired status once under this section and, upon providing such verification, is not required to provide additional verification when renewing plates issued pursuant to this section.

SECTION 28. 42-3-122 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-3-122. Special plates - rules - new plates. (1) (c) THE DEPARTMENT, BY SEPTEMBER 30, 2002, AND ON OR BEFORE SEPTEMBER 30 EACH YEAR THEREAFTER, SHALL PROVIDE SUFFICIENT INFORMATION TO ENABLE THE COLORADO BOARD OF VETERANS AFFAIRS TO COMPLETE THE REPORT REQUIRED BY SECTION 28-5-703 (3), C.R.S.

SECTION 29. 43-10-104 (1), Colorado Revised Statutes, is amended to read:

43-10-104. Colorado aeronautical board - created. (1) The division shall be under the jurisdiction of the Colorado aeronautical board, which board is hereby created. The board shall consist of seven members. The initial members of the board shall be the members of the Colorado aeronautical board as such existed in the department of military AND VETERANS affairs prior to July 1, 1991, and the terms of such members shall expire as the original terms of such members were scheduled to expire. Thereafter, the governor shall appoint their successors for terms of three years each. If any such member vacates his or her office during the term for which appointed to the board, a vacancy on the board shall exist and shall be filled by the governor for the unexpired term. All such appointments shall be with the consent of the senate. The board shall annually elect from its members a chairman, a vice-chairman, and a secretary. The members of the board shall receive fifty dollars per diem while the board is in session and shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties. The board

shall not conduct any business unless there are at least four members of the board present.

SECTION 30. Harmonization of relocated statutes. Pursuant to sections 2-4-301 and 2-5-103, Colorado Revised Statutes, the revisor of statutes shall renumber the statutory sections of any other bill enacted during the second regular session of the sixty-third general assembly that amends any provision being relocated by this act and shall harmonize amendments made to said sections with those contained in this act.

SECTION 31. Transfer of appropriation. From the appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2002, to the department of human services, for the division of veterans affairs and the Colorado board of veterans affairs the sum of two million one hundred thirty-four thousand twenty-three dollars (\$2,134,023) and 12.0 FTE is hereby transferred to the department of military and veterans affairs for the implementation of this act. Of said sum, six hundred seventy-seven thousand nine hundred eighty-six dollars (\$677,986) shall be from the general fund, one million three hundred seventeen thousand three hundred one dollars (\$1,317,301) shall be from cash funds exempt, and one hundred thirty-eight thousand seven hundred thirty-six dollars (\$138,736) shall be from federal funds.

SECTION 32. Effective date. This act shall take effect July 1, 2002.

SECTION 33. 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 21, 2002