

CHAPTER 426

APPROPRIATIONS

HOUSE BILL 04-1464

BY REPRESENTATIVE(S) Witwer, Young, Plant, Coleman, Madden, McFadyen, Paccione, and Romanoff;
also SENATOR(S) Reeves, Owen, and Teck.

AN ACT

**CONCERNING THE AUTHORIZATION OF ADDITIONAL PERSONNEL TO THE DEPARTMENT OF EDUCATION
TO PROVIDE ASSISTANCE TO PUBLIC SCHOOLS RELATING TO SCHOOL CAPITAL CONSTRUCTION.**

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

SECTION 1. Part III (2) (C) of section 2 of House Bill 04-1422, as enacted at the Second Regular Session of the Sixty-fourth General Assembly, is amended, and the said Part III (2) (C) is further amended BY THE ADDITION OF A NEW FOOTNOTE, to read:

Section 2. **Appropriation.**

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

APPROPRIATION FROM

| ITEM & SUBTOTAL | TOTAL | GENERAL FUND | GENERAL FUND EXEMPT | CASH FUNDS | CASH FUNDS EXEMPT | FEDERAL FUNDS |
|--------------------|-------|-----------------|---------------------------|---------------|-------------------------|------------------|
| \$ | \$ | \$ | \$ | \$ | \$ | \$ |

**PART III
DEPARTMENT OF EDUCATION**

(2) ASSISTANCE TO PUBLIC SCHOOLS

(C) Grant Programs and Other Distributions¹⁴

| | | | | | | |
|---|------------|--|--|--|---|------------------------|
| Read-to-Achieve Cash Fund | 16,592,664 | | | | 16,592,664 ^a | |
| Read-to-Achieve Grant Program | 16,592,664 | | | | 16,592,664 ^b | |
| Federal Title I Reading First Grant | 9,650,058 | | | | | 9,650,058 (8.8 FTE) |
| S.B. 97-101 Public School Health Services | 14,585,895 | | | | 14,585,895(T) ^c (1.4 FTE) | |
| State Public School Fund, Contingency Reserve ^{15, 16} | 3,585,804 | | | | 3,585,804 ^d | |

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| ITEM & SUBTOTAL | TOTAL | APPROPRIATION FROM | | | | | FEDERAL FUNDS |
|--|-------------------|--------------------|---------------------------|---------------|-------------------------|----|------------------|
| | | GENERAL FUND | GENERAL FUND EXEMPT | CASH FUNDS | CASH FUNDS EXEMPT | | |
| \$ | \$ | \$ | \$ | \$ | \$ | \$ | \$ |
| State Public School Fund, School Capital Construction Expenditures Reserve RESERVE ^{6a} | 10,000,000 | | | | 10,000,000 ^e | | |
| | | | | | (1.0 FTE) | | |
| | | | | | (2.0 FTE) | | |
| Charter School Capital Construction | 5,000,000 | | | | 5,000,000 ^f | | |
| State Match for School Lunch Program | 2,472,644 | | | | 2,472,644 ^g | | |
| | <u>78,479,729</u> | | | | | | |

^a This amount shall be from the Tobacco Litigation Settlement Cash Fund created in Section 24-22-115, C.R.S., pursuant to Section 24-75-1104 (1) (e), C.R.S.

^b This amount shall be from the Read-to-Achieve Cash Fund created in Section 22-7-506 (4), C.R.S.

^c This amount shall be from federal Medicaid funds appropriated to the Department of Health Care Policy and Financing. Of this amount, \$179,470 shall be for administrative costs.

^d This amount shall be from school district reimbursements that are credited to the State Public School Fund, Contingency Reserve, pursuant to Section 22-54-117 (5) (b), C.R.S.

^e Of this amount, \$5,000,000 shall be from the shall be from the State Education Fund created in Section 17 (4) of Article IX of the State Constitution, and \$5,000,000 shall be from the State Public School Fund, School Capital Construction Expenditures Reserve established in Section 22-54-117 (1.5), C.R.S.

^f This amount shall be from the State Education Fund created in Section 17 (4) of Article IX of the State Constitution.

⁸ This amount shall be from the State Public School Fund created in Section 22-54-114, C.R.S.

FOOTNOTES -- The following statements are referenced to the numbered footnotes throughout section 2.

~~16a~~ DEPARTMENT OF EDUCATION, ASSISTANCE TO PUBLIC SCHOOLS, GRANT PROGRAMS AND OTHER DISTRIBUTIONS, STATE PUBLIC SCHOOL FUND, SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE. THE PURPOSE OF THIS INCREASE IN THE FTE AUTHORIZATION IS TO: (a) IMPROVE THE DEPARTMENT'S ABILITY TO EFFICIENTLY ADMINISTER THE SCHOOL DISTRICT CAPITAL CONSTRUCTION ASSISTANCE PROGRAM; AND (b) TO ENHANCE THE DEPARTMENT'S ABILITY TO PROVIDE TECHNICAL CONSULTATION AND ADMINISTRATIVE SERVICES TO SCHOOL DISTRICTS TO EVALUATE THE NEED FOR CAPITAL CONSTRUCTION EXPENDITURES AND THE DISTRICTS' PLANS FOR EXPENDING ANY ASSISTANCE RECEIVED FROM THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE, AS REQUIRED BY SECTION 22-54-117 (1.5) (C), C.R.S. IN CONNECTION WITH THIS INCREASE IN THE FTE AUTHORIZATION, THE GENERAL ASSEMBLY REQUESTS THAT THE DEPARTMENT PROVIDE INFORMATION TO THE JOINT BUDGET COMMITTEE BY NOVEMBER 1, 2004, CONCERNING ANY RECOMMENDED STATUTORY CHANGES THAT MAY FURTHER ENHANCE THE DEPARTMENT'S ABILITY TO PROVIDE TECHNICAL CONSULTATION TO SCHOOL DISTRICTS OR TO ENSURE THE EFFICIENT ADMINISTRATION OF THE SCHOOL DISTRICT CAPITAL CONSTRUCTION ASSISTANCE PROGRAM AND THE SCHOOL CAPITAL CONSTRUCTION EXPENDITURES RESERVE. THE DEPARTMENT IS ENCOURAGED TO WORK WITH AND SOLICIT INPUT FROM VARIOUS DEPARTMENTS, AGENCIES, OR INSTITUTIONS OF STATE GOVERNMENT WITH EXPERTISE OR EXPERIENCE IN CONSTRUCTION MANAGEMENT FOR THE PURPOSE OF RESPONDING TO THIS FOOTNOTE.

(Governor lined through this provision. See the editor's note and the Governor's letter following this act.)

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 in part and vetoed in part: June 4, 2004

Editor's note: The following is a reprinting of the Governor's message filed with House Bill 04-1464 when he approved the bill in part and vetoed it in part on June 4, 2004. Markings were made on the bill by the Governor purporting to veto an appropriation contained in a capital construction headnote. For the reasons set forth in the letter to the Governor on page 131 of

Volume 1 of the 1989 Session Laws of Colorado, the President of the Senate and the Speaker of the House of Representatives expressed their opinion that similar markings made on the 1989 long bill did not constitute valid vetoes. However, the Colorado Supreme Court has held that such purported vetoes are entitled to a presumption of validity. See Romer v. Colorado General Assembly, 810 P.2d 215 (Colo. 1991). In view of this holding, the purported veto is reflected in the version of the bill printed on the preceding pages.

June 4, 2004

The Honorable Colorado House of Representatives
Sixty-Fourth General Assembly
Second Regular Session
Denver, CO 80203

Ladies and Gentlemen:

I am filing with the Secretary of State House Bill 04-1464, "Concerning the Authorization of Additional Personnel to the Department of Education to Provide Assistance to Public Schools Relating to School Capital Construction." Approved in part and disapproved in part on June 4, 2004 at 10:55 A.M.

It is my constitutional obligation to review the general appropriations bill and exercise the line item veto when necessary. House Bill 04-1464 amends the general appropriations bill. While I have approved House Bill 04-1464 as a whole, I have vetoed footnote 16a within the bill.

Footnote 16a: Department of Education, Assistance to Public Schools, Grant Programs and Other Distributions, State Public School Fund, School Capital Construction Expenditures Reserve – The purpose of this increase in the FTE authorization is to: (a) Improve the department's ability to efficiently administer the school district capital construction assistance program; and (b) to enhance the department's ability to provide technical consultation and administrative

services to school districts to evaluate the need for capital construction expenditures and the district's plans for expending any assistance received from the school capital construction expenditures reserve, as required by section 22-54-117(1.5)(c), C.R.S. In connection with this increase in the FTE authorization, the general assembly requests that the department provide information to the Joint Budget Committee by November 1, 2004, concerning any recommended statutory changes that may further enhance the Department's ability to provide technical consultation to school districts or to ensure the efficient administration of the school district capital construction assistance program and the school capital construction expenditures reserve. The department is encouraged to work with and solicit input from various departments, agencies, or institutions of state government with expertise or experience in construction management for the purpose of responding to this footnote.

This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. In addition, this footnote violates Article V,

Section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. I will instruct the department to comply to the extent feasible.

For these reasons, I have exercised my power to veto certain portions of this bill.

Sincerely,

Bill Owens