

CHAPTER 395

APPROPRIATIONS

HOUSE BILL 02-1471

BY REPRESENTATIVE(S) Young, Berry, Saliman, Rippy, and Stengel;
also SENATOR(S) Reeves, Tate, and Owen.

AN ACT

**CONCERNING FUNDING FOR CAPITAL CONSTRUCTION, AND MAKING SUPPLEMENTAL
APPROPRIATIONS IN CONNECTION THEREWITH.**

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

SECTION 1. Part V (1) and (31) (A), of section 3 of chapter 336, Session Laws of Colorado 1998, as Part V (31) (A) as amended by section 7 of chapter 363, Session Laws of Colorado 1999, as Part V (1) as further amended by section 16 of chapter 413, Session Laws of Colorado 2000, are amended, and Part V (10) (B) of section 3 of chapter 336, Session Laws of Colorado 1998,as amended by section 7 of chapter 363, Session Laws of Colorado 1999, as further amended by section 13 of chapter 363, Session Laws of Colorado 2001, is 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.

Appropriations

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		CAPITAL CONSTRUCTION FUND	CAPITAL CONSTRUCTION FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

**PART V
DEPARTMENT OF HIGHER EDUCATION**

**(1) COLORADO COMMISSION ON HIGHER
EDUCATION**

(A) Capital Construction Project

Historic Woodward House Renovation	14,145	14,145	11,018		3,127 ^a	
COLORADO ADVANCED PHOTONICS TECHNOLOGY CENTER, PHASE 2 ⁴	<u>2,811,000</u>		2,811,000			
	2,825,145					

^a This amount shall be from the State Historical Fund.

(10) UNIVERSITY OF COLORADO AT BOULDER

(B) Capital Construction Projects

Environmental Health and Safety Center ³	3,648,624				3,648,624 ^a	
--	-----------	--	--	--	------------------------	--

Ekeley Science Building East Wing Renovation			
RENOVATION ^{3a}	2,481,460	2,104,351	377,109 ^a
Humanities/Social Sciences Building Construction, Including Renovation of Woodbury Arts and Sciences Building, Phase 3 of 3	5,129,248	3,929,248	1,200,000 ^c
Porter Biosciences Renovation, Phase 2 of 4	1,605,852	1,605,852	
Geology Building Renovation	6,012,478	3,869,682	2,142,796 ^c
Interdisciplinary Environmental Engineering Addition and Renovation	2,131,418	2,131,418	
Renovation of Research Lab #3 ³	5,621,000		5,621,000 ^a
Air Supported Practice Facility	1,500,000		1,500,000 ^a
Renovation of Imig Music Practice Rooms	497,000	497,000 ^b	
Institute of Behavioral Genetics Addition	496,000		496,000 ^a
	<u>29,123,080</u>		

~~(31) COLORADO ADVANCED TECHNOLOGY
INSTITUTE~~

~~(A) Capital Construction Project~~

Ch. 395

Appropriations

Appropriations

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		CAPITAL CONSTRUCTION FUND	CAPITAL CONSTRUCTION FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

~~Colorado Advanced Photonics
Technology Center, Lowry
Higher Education Center,
Phase 2*~~

2,811,000

2,811,000

FOOTNOTES -

- 3a CAPITAL CONSTRUCTION, DEPARTMENT OF HIGHER EDUCATION, UNIVERSITY OF COLORADO AT BOULDER, CAPITAL CONSTRUCTION PROJECTS, EKELEY SCIENCE BUILDING EAST WING RENOVATION -- IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS APPROPRIATION REMAIN AVAILABLE UNTIL DECEMBER 31, 2002.
- 4 Capital Construction, Department of Higher Education, ~~Colorado Advanced Technology Institute~~, COLORADO COMMISSION ON HIGHER EDUCATION, Colorado Advanced Photonics Technology Center, ~~Lowry Higher Education Center~~, Phase 2 -- It is the intent of the General Assembly that the first \$2,811,000 of all proceeds received by CATI from the sale of Supernet shall be credited to the Capital Construction Fund as reimbursement for the state's contribution for Phase 2 of the Advanced Photonics Technology project.

SECTION 2. Part V (26) (A) and (26) (B) and the affected totals and grand totals of section 3 of chapter 364, Session Laws of Colorado 1999, as the said affected totals are further amended by section 6 of chapter 412 as further amended by section 17 of chapter 413, Session Laws of Colorado 2000, as the said affected totals are further amended by section 14 of chapter 363, Session Laws of Colorado 2001, as the said affected totals are further amended by section 3 of chapter 9, Session Laws of Colorado 2001, Second Extraordinary Session, and as the said affected totals are further amended by House Bill 02-1388 as further amended by House Bill 02-1438, enacted at the Second Regular Session of the Sixty-third General Assembly, are amended, and Headnote (1) of said section 3 of chapter 364, Session Laws of Colorado 1999, is amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

Section 3. **Capital construction appropriation.**

(1)(c.5) IN ADDITION TO ANY OTHER APPROPRIATION MADE FOR THE FISCAL YEAR BEGINNING JULY 1, 2001, THERE IS HEREBY APPROPRIATED, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, TO THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, COLORADO REVISED STATUTES, THE SUM OF ONE HUNDRED NINETY-NINE THOUSAND TWO HUNDRED FIFTY-NINE DOLLARS (\$199,259).

**PART V
DEPARTMENT OF HIGHER EDUCATION**

(26) LOWRY HIGHER EDUCATION CENTER

(A) Controlled Maintenance Projects

Various Campus Buildings, Repair/Replace Roofs, Phase 2 of 2	384,111	
Various Facilities, Chlorofluorocarbon Refrigeration Phase-out	272,061 142,061	
	<u>656,172</u>	656,172
	526,172	526,172

(B) Capital Construction Projects

HEAT Center Information Technology Infrastructure, Phase 2 of 2	3,630,787	3,630,787
---	-----------	-----------

Appropriations

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		CAPITAL CONSTRUCTION FUND	CAPITAL CONSTRUCTION FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
Rocky Mountain Manufacturing Academy, Renovation of Building 903, Phase 2 of 2						
	825,300		825,300			
	<u>769,324</u>		<u>769,324</u>			
	4,456,087					
	4,400,111					
	5,112,259					
	4,926,283					
TOTALS PART V (HIGHER EDUCATION)	\$298,396,252		\$162,857,580	\$17,867,769	\$114,538,328	\$3,132,575
	<u>\$298,210,276</u>		<u>\$162,671,604</u>			
GRAND TOTALS (CAPITAL CONSTRUCTION)^{5a}	\$479,868,347		\$245,871,669	\$41,527,166	\$165,300,586 ^a	\$27,168,926
	<u>\$479,682,371</u>		<u>\$245,685,693</u>			

^a Of this amount, \$12,479,050 contains a (T) notation and \$2,215,761 is from the Highway Users Tax Fund pursuant to Section 43-4-201 (3) (a), C.R.S.

SECTION 3. Headnotes (1)(c) and (1)(d), Part I (1), Part III (3) (A) and (5) (A), and Part IX (2) and the affected totals and grand totals of section 3 of House Bill 02-1420, enacted at the Second Regular Session of the Sixty-third General Assembly, are amended, and the said Part III is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

Section 3. **Capital construction appropriation.**

(1)(c) Moneys appropriated in this section from the capital construction fund include the sum transferred from the general fund to the capital construction fund pursuant to section 24-75-302, Colorado Revised Statutes, which sum constitutes state fiscal year spending as defined in section 24-77-102 (17) (a), Colorado Revised ~~Statutes~~: STATUTES, AND THREE HUNDRED EIGHTY-FIVE THOUSAND TWO HUNDRED THIRTY-FIVE DOLLARS (\$385,235) IN FUND BALANCE, WHICH SUM DOES NOT CONSTITUTE STATE FISCAL YEAR SPENDING AS DEFINED IN SECTION 24-77-102 (17) (B), COLORADO REVISED STATUTES.

~~(d) In addition to any other appropriation made for the fiscal year beginning July 1, 2002, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the capital construction fund created in section 24-75-302, Colorado Revised Statutes, the sum of eighteen million three hundred thirty-one thousand seven hundred eleven dollars (\$18,331,711). EIGHTEEN MILLION ONE HUNDRED THIRTY-TWO THOUSAND FOUR HUNDRED FIFTY-TWO DOLLARS (\$18,132,452).~~

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

PART I
DEPARTMENT OF CORRECTIONS

(1) CAPITAL CONSTRUCTION

Fremont Correctional Facility,		
Gymnasium Expansion	1,033,453	1,033,453 ^a
Correctional Industries, Minor		
Construction Projects ¹	400,000	400,000 ^b

Ch. 395

Appropriations

Appropriations

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		CAPITAL CONSTRUCTION FUND	CAPITAL CONSTRUCTION FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
REPLACE SERVING LINES AND DUMB WAITERS, BUENA VISTA CORRECTIONAL FACILITY, RESTORATION OF FY 1998-99 FUNDS	191,715		191,715			
	1,433,453					
	1,625,168					

^a This amount shall be from sales revenues earned by the Canteen Operation.

^b This amount shall be from sales revenues earned by Correctional Industries.

TOTALS PART I

(CORRECTIONS)

\$1,433,453				\$1,433,453	
<u>\$1,625,168</u>		<u>\$191,715</u>			

PART III

DEPARTMENT OF HIGHER EDUCATION

(3) UNIVERSITY OF COLORADO AT BOULDER

(A) Capital Construction

Tennis Court Replacement 1,015,358

East Folsom Stadium Improvements	45,707,258		
CENTER FOR ASTROPHYSICS AND SPACE ASTRONOMY, ASTROPHYSICAL RESEARCH LABORATORY, EXPANSION AND RENOVATION	<u>1,930,000</u>	46,722,616	46,722,616^a
		48,652,616	48,652,616 ^a

^a This amount shall be from exempt institutional sources and is shown here for informational purposes only. Therefore, it shall not be accounted for in the State's Capital Construction Fund and the limitations on encumbrance timeliness and use of internal workforce do not apply.

(5) UNIVERSITY OF COLORADO HEALTH SCIENCES CENTER

(A) Capital Construction

Fitzsimons, Infrastructure Development, Early Development Program ²	485,645		485,645 ^a
Fitzsimons, Infrastructure Development, Midterm Development Program ³	5,379,497		5,379,497 ^b
Fitzsimons, Education Facility/Center for Studies in Clinical Performance, Phase 2 of 3 ³	2,350,301		2,350,301 ^a
Environmental Health and Safety Waste Processing Facility	3,200,000		3,200,000 ^b

Ch. 395

Appropriations

Appropriations

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		CAPITAL CONSTRUCTION FUND	CAPITAL CONSTRUCTION FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$
FITZSIMONS INFRASTRUCTURE DEVELOPMENT, RESTORATION OF FY 1999-00 FUNDS	822,457		822,457			
	11,415,443					
	12,237,900					

^a These amounts shall be from the Fitzsimons Trust Fund.

^b These amounts shall be from exempt institutional sources.

(10) LOWRY HIGHER EDUCATION CENTER

(A) CAPITAL CONSTRUCTION

SITE AND UTILITY PLAN,
RESTORATION OF FY 2000-01
FUNDS

535,983

535,983

TOTALS PART III

(HIGHER EDUCATION)

~~\$95,430,483~~

~~\$10,941,722~~

~~\$83,599,261~~

\$889,500

\$98,718,923

\$12,300,162

\$85,529,261

**PART IX
DEPARTMENT OF PERSONNEL**

(2) CONTROLLED MAINTENANCE

Emergency Fund	3,175,000	3,175,000
	1,810,821	1,810,821
	11,262,019	
	9,897,840	

TOTALS PART IX

(PERSONNEL)	\$11,262,019	\$9,598,916	\$334,387	\$1,328,716 ^a
	<u>\$9,897,840</u>	<u>\$8,234,737</u>		

^a Of this amount, \$1,328,716 contains a (T) notation.

GRAND TOTALS

(CAPITAL CONSTRUCTION)⁵	\$215,187,205	\$27,820,209	\$45,461,241	\$125,793,286	\$16,112,469
	<u>\$217,303,181</u>	<u>\$28,006,185</u>		<u>\$127,723,286^a</u>	

^a Of this amount, \$8,101,067 contains a (T) notation and \$1,010,012 is from the Highway Users Tax Fund pursuant to Section 43-4-201 (3) (a), C.R.S.

SECTION 4. Effective date. This act shall take effect upon passage; except that section 3 of this act shall take effect only if House Bill 02-1420 is enacted at the Second Regular Session of the Sixty-third General Assembly and becomes law.

SECTION 5. 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 7, 2002

Appropriations

ITEM & SUBTOTAL	TOTAL	APPROPRIATION FROM				
		CAPITAL CONSTRUCTION FUND	CAPITAL CONSTRUCTION FUND EXEMPT	CASH FUNDS	CASH FUNDS EXEMPT	FEDERAL FUNDS
\$	\$	\$	\$	\$	\$	\$

Editor's note: The following is a reprinting of the Governor's message filed with House Bill 02-1471 when he approved the bill in part and vetoed it in part on June 7, 2002. 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 7, 2002

The Honorable Colorado House of Representatives
Sixty-Third General Assembly
Second Regular Session
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

I am filing with the Secretary of State the following act:

House Bill 02-1471, Concerning funding for capital construction, and making supplemental appropriations in connection therewith.

Approved in part and disapproved in part on June 7, 2002, at 12:50 p.m.

It is my constitutional obligation to review appropriations bills and exercise the line item veto when necessary. Pursuant to the Colorado Constitution, I have forwarded copies of the vetoed items from this bill, with my objections, to the Secretary of State.

I have lined through the following item.

Section 3. Capital construction appropriation. Headnote (1)(d) page 11: (d) In addition to any other appropriation made for fiscal year beginning July 1, 2002, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the capital construction fund created in section 24-75-302, Colorado Revised Statutes, the sum of ~~eighteen million three hundred thirty-one thousand seven hundred eleven dollars (\$18,331,711)~~: EIGHTEEN MILLION ONE HUNDRED THIRTY-TWO THOUSAND FOUR HUNDRED FIFTY-TWO DOLLARS (\$18,132,452).

I am vetoing this item because it places \$18,132,452 under the six percent limit for the purpose of maintaining the six percent General Fund appropriations base. However, as previously stated, there are not sufficient revenues to maintain such a spending base. General fund revenues will be down 13 percent in FY 2001-02, yet the General Assembly increased appropriations by 5.8 percent in that year and by another 7.3 percent in FY 2002-03. Without sufficient revenues, maintenance of this base merely delays necessary decisions to cut the budget and forces more dramatic cuts in services at a later date.

The actions I am taking are based upon legal opinions and court decisions regarding inclusions in the general appropriations bill.

Sincerely,

Bill Owens