

STATE OF COLORADO

EXECUTIVE CHAMBERS

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Bill Ritter Jr.
Governor

May 2, 2007

The Honorable Colorado Senate

Sixty-sixth General Assembly
First Regular Session
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

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

SENATE BILL 07-239 CONCERNING THE PROVISION FOR PAYMENT OF THE EXPENSES OF THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL DEPARTMENTS OF THE STATE OF COLORADO, AND OF ITS AGENCIES AND INSTITUTIONS, FOR AND DURING THE FISCAL YEAR BEGINNING JULY 1, 2007, EXCEPT AS OTHERWISE NOTED.

Approved in part and disapproved in part on May 2, 2007, at _____.

It is my constitutional obligation to review the general appropriations bill and exercise the line item veto when necessary. While I have approved Senate Bill 07-239 (the "FY 2007-08 Long Bill") as a whole, I have identified certain unconstitutional headnotes, and I have vetoed certain footnotes within the bill. Pursuant to the Colorado Constitution, I have filed copies of the vetoed items from this bill, with my objections, with the Secretary of State.

I would like to thank the General Assembly for working with me to balance the Colorado's critical priorities. This budget contains significant investments that will not only improve the lives of Coloradans, but result in new efficiencies and long term savings. In particular, your approval of my recidivism package puts Colorado on a new path where public safety will be improved by working with state and local programs that reduce the likelihood that inmates commit new crimes after they are released.

VETO AND COMMENT ON HEADNOTES AND FOOTNOTES

Article IV, Section 12 of the Colorado Constitution allows me to exercise line item vetoes on the general appropriations bill (the “Long Bill”). I have full discretion with regard to the items I choose to veto. I have exercised this power to veto certain portions of the FY 2006-2007 Long Bill that do not meet with my approval.

A number of headnotes and footnotes violate Article III and/or Article V of the Colorado Constitution. Article III provides separation of powers between the executive and legislative branches. While the legislative branch has the authority to appropriate state funds, the executive branch has the inherent responsibility and authority to administer state funds. Therefore, the legislature may not attach conditions in the Long Bill that intrude into the administration of state government. *Colorado General Assembly v. Owens*, 136 P.3d 262 (Colo. 2006); *Anderson v. Lamm*, 579 P.2d 620 (Colo. 1978); *Colorado General Assembly v. Lamm*, 704 P.2d 1371 (Colo. 1985) (hereinafter *Lamm II*). Headnotes and footnotes that go beyond appropriating funds and infringe on the executive authority violate the Colorado Constitution and are void. Indeed, less than a year ago the Colorado Supreme Court recognized the invalidity of such headnotes, holding that “the legislature ‘may not attach conditions to a general appropriation bill which purport to reserve to the legislature powers of close supervision that are essentially executive in character.’” *Owens*, 136 P.3d at 266 (quoting *Anderson*, 579 P.2d at 624). Furthermore, Article V, section 32 of the Colorado Constitution prohibits the legislature from including substantive legislation in the Long Bill. *Owens*, 136 P.3d at 266; *Anderson*, 579 P.2d at 624; *Lamm II*, 704 P.2d at 1382.

The executive department cannot abide by legislative directives that are in violation of the Colorado Constitution. Therefore, I have lined through the following items:

SECTION 1: HEADNOTES

- 1. Section 1. Definitions - general provisions, headnote (1), pages 1-2:** (1) (a) "Capital outlay" means: (I) Equipment, furniture, motor vehicles, software, and other items that have a useful life of one year or more; (II) Alterations and replacements, meaning major and extensive repair, remodeling, or alteration of buildings, the replacement thereof, or the replacement and renewal of the plumbing, wiring, electrical, fiber optic, heating, and air conditioning systems therein; (III) New structures, meaning the construction of entirely new buildings, including the value of materials and labor, either state-supplied or supplied by contract; (IV) Nonstructural improvements to land, meaning the grading, leveling, drainage, irrigation, and landscaping thereof and the construction of roadways, fences, ditches, and sanitary and storm sewers. (b) "Capital outlay" does not include those things defined as capital construction by section 24-75-301, Colorado Revised Statutes.

This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is

important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business and of the current fiscal situation. Furthermore, this headnote represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. I will direct the departments to comply with the headnote to the extent feasible; however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Because this headnote violates one or more articles of the state constitution, the headnote and its references are constitutionally void.

- 2. Section 1. Definitions - general provisions, headnote (3), pages 2-3:**(3) (a) (I) Except as otherwise provided in paragraph (b) of this subsection, "full time equivalent" or "FTE" means the budgetary equivalent of one permanent position continuously filled full time for an entire fiscal year by elected state officials or by state employees who are paid for at least two thousand eighty hours per fiscal year, with adjustments made to: (A) Include in such time computation any sick, annual, administrative, or other paid leave; and (B) Exclude from such time computation any overtime or shift differential payments made in excess of regular or normal hours worked and any leave payouts upon termination of employment. (II) "Full time equivalent" or "FTE" does not include contractual, temporary, or permanent seasonal positions. (III) As used in this paragraph (a), "state employee" means a person employed by the state, whether or not such person is a classified employee in the state personnel system. (b) For purposes of higher education professional personnel and assistants in resident instruction and professional personnel in organized research and activities relating to instruction, "full time equivalent" or "FTE" means the equivalent of one permanent position continuously filled for a nine-month or ten-month academic year. (c) The maximum limitation on the number of FTE that are allowed for the fiscal year to which this act pertains may comprise any combination of part-time positions or full-time positions so long as the maximum FTE limitation is not exceeded.

In 1978, the Colorado Supreme Court held that legislative attempts to administer the appropriation by placing "specific staffing and resource allocation decisions" in a general appropriations bill were unconstitutional. *Anderson v. Lamm*, 579 P.2d 620, 626 (Colo. 1978). This holding was recently affirmed. *Colorado General Assembly v. Owens*, 136 P.3d 262, 269 (Colo. 2006). In so holding, the Supreme Court recognized that the ability to make staffing decisions is one of the most fundamental components of managing state government. Therefore, this headnote and its references are constitutionally void. Such a headnote inhibits the executive branch's authority to administer the appropriation and is thus unconstitutional. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state constitution, the headnote and its references are constitutionally void.

- 3. Section 1. Definitions - general provisions, headnote (4), page 3:** (4) "Health, life, and dental" means the state contribution for group benefits plans pursuant to section 24-50-609, Colorado Revised Statutes. Pursuant to section 24-50-104 (4) (d) (II) and section 24-50-609 (2) (b) (II), Colorado Revised Statutes, the state of Colorado shall contribute an amount necessary to pay three hundred ten dollars and fifty-one cents per month per single employee, four hundred eighty dollars and thirty-five cents per month per employee with one or more children, five hundred twenty-four dollars and ninety-three cents per month per employee and spouse, and seven hundred eleven dollars and fifteen cents per employee and family per month for each employee enrolled in a group benefit plan that includes enrollment in medical benefits. In accordance with section 24-50-104 (4) (d) (II), Colorado Revised Statutes, these contribution amounts shall be effective from July 1, 2007, until June 30, 2008.

This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. I will direct the departments to comply with the headnote to the extent feasible; however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

- 4. Section 1. Definitions - general provisions, headnote (10), pages 4-5:** (10) "Operating expenses" means: (a) Supplies and materials, meaning items that by their nature are consumable and that have a useful life of less than one year or that, after usage, undergo an impairment of, or a material change in, physical condition, including, but not limited to, books, periodicals, and educational, laboratory, medical, data processing, custodial, postal, office, photographic, and road maintenance supplies and materials; (b) Current charges, meaning charges for items or services, including, but not limited to, charges for utilities, trash removal, custodial services, telecommunications, data processing, advertising, freight, rentals of equipment and property, storage, parking, minor repair or maintenance, and printing and reproduction, and insurance premiums, dues, subscriptions, casualty losses, commissions, royalties, interest, fees, fines, reimbursements, litigation-related expenses to the department of law for individual cases that exceed five hundred dollars, and payments of prizes, awards, and judgments other than to state employees as compensation; (c) Capital outlay, as defined in subsection (1) of this section. (d) The cost of travel by common carrier or by state-owned or privately owned conveyance and the costs of meals and lodging incident to such travel.

This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is

important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. I will direct the departments to comply with the headnote to the extent feasible; however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

- 5. Section 1. Definitions - general provisions, headnote (11), page 5:** (11) "Personal services" means: (a) All salaries and wages, whether to full-time, part-time, or temporary employees of the state, and also includes the state's contribution to the public employees' retirement fund and the state's share of federal Medicare tax paid for state employees. Payments for overtime shall be in compliance with rules and procedures adopted by the state personnel director. (b) Professional services, meaning services requiring advanced study in a specialized discipline that are rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state, including but not limited to accounting, consulting, architectural, engineering, physician, nurse, specialized computer, and construction management services. Such services shall not include the provision of legal services for the department of law or to a private attorney or law firm. Payments for professional services shall be in compliance with section 24-30-202 (2) and (3), Colorado Revised Statutes. (c) Temporary services, meaning clerical, administrative, and casual labor rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state. Payments for temporary services shall be in compliance with section 24-30-202 (2) and (3), Colorado Revised Statutes. (d) Tuition, meaning payments for graduate or undergraduate courses taken by state employees at institutions of higher education. (e) Payments for unemployment insurance as required by the department of labor and employment.

This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. I will direct the departments to comply with the headnote to the extent feasible; however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

6. **Section 1. Definitions - general provisions, headnote (19), page 6:** (19) Where no purpose is specified or where a special program is specified, the appropriation shall be for contractual services, tuition, operating expenses, and, for personal services other than contractual services.

This headnote interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution. It is important to preserve the executive authority to administer appropriations in order to allow effective management of the state's business. I will direct the departments to comply with the headnote to the extent feasible; however, to the extent that this headnote hinders the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these definition parameters, provided that such spending will remain within the line item appropriation provided by the General Assembly. Furthermore, this provision represents substantive legislation and as such is in violation of Article V, Section 32 of the Colorado Constitution. Because this headnote violates one or more articles of the state's constitution, the headnote and its references are constitutionally void.

7. **Section 1. Definitions - general provisions, headnote (21), pages 7:** (21) When it is not feasible, due to the format of this act, to set forth fully in the line item description the purpose of an item of appropriation or a condition or limitation on the item of appropriation, the footnotes at the end of each section of this act refer to provisions which set forth such purposes, conditions, or limitations, and such provisions are therefore intended to be binding portions of the items of appropriation to which they relate. In other cases, where clearly expressed, footnotes refer to statements which are not intended by the general assembly to be binding portions of appropriations but which are related to the indicated item or items of appropriation. Such nonbinding statements include explanations of the assumptions used in making appropriations, the general assembly's intent with respect to future appropriations, and requests on the part of the general assembly for particular administrative action in connection with items of appropriation.

This headnote indicates that footnotes refer to provisions setting forth purpose, conditions, or limitations regarding the appropriation and states that provisions are therefore intended to be "binding portions" of the items of appropriations to which they relate. Any footnote that interferes with the ability of the executive branch to administer appropriations as provided by Article III of the Colorado Constitution is invalid. See *Anderson v. Lamm*, 579 P.2d 620, 624 (Colo. 1978); *Colorado General Assembly v. Owens*, 136 P.3d 262, 266 (Colo. 2006). Any footnote that constitutes substantive legislation is in violation of Article V, Section 32 of the Colorado Constitution. *Anderson*, 579 P.2d at 624. I will consider such footnotes to be advisory, not binding.

SECTION 2: FOOTNOTES

1. **Footnote 1, page 17:** Department of Agriculture, Agricultural Services Division, Personal Services; and Operating Expenses -- The Department is requested to submit a report to the Joint Budget Committee by November 1, 2007, which summarizes options for reducing personal services and operating expenses related to programs administered by Inspection and Consumer Services. This report should include strategies for extending risk-based time frames, comparisons to programs in other states, statutory changes necessary to implement potential cost savings, and possible consequences of reduced funding and FTE.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

2. **Footnote 2, page 17:** Department of Agriculture, Special Purpose, Wine Promotion Board -- The Department is requested to submit a report to the Joint Budget Committee by November 1, 2007, which summarizes the program's efficacy in "promoting all wines produced or finished by a licensed Colorado winery," pursuant to Section 35-29.5-104(2), C.R.S. and which summarizes the program's effectiveness in enhancing the market share of Colorado wine.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

3. **Footnote 3, page 17:** Department of Agriculture, State Fair -- The Department is requested to submit a report to the Joint Budget Committee by November 1, 2007, which summarizes the State Fair's year-to-date and future contracted revenue-generating events and the revenue associated with each event, itemized by the event's association to the State Fair's statutory purposes as outlined in Section 35-65-105(1), 'for the display of livestock and agricultural, horticultural, industrial, mining, water conservation, tourist industry, recreational, educational, and scientific facilities, processes, and products of the state of Colorado.'.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that

cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

4. **Footnote 5, pages 17, 31, 43, 50, 65, 77, 104, 123, 131, 137, 140, 148, 152, 164, 178, 204, 219, 226, 238, 243, 245, 249-250:** All Departments, Totals -- Every Department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2007-08. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

I am vetoing this footnote for several reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation and by attaching requirements to federal funds and private donations which are not subject to legislative appropriation. Second, placing information requirements on such funds constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate.

5. **Footnote 6, pages 31, 104-105, 123, 219:** Department of Corrections, Management, Executive Director's Office Subprogram; Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division; and Division of Youth Corrections; Judicial Department, Probation and Related Services; and Department of Public Safety, Division of Criminal Justice -- State agencies involved in multi-agency programs requiring separate appropriations to each agency are requested to designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee, including prior year, request year, and three year forecasts for revenues into the fund and expenditures from the fund by agency. The requests should be sustainable for the length of the forecast based on anticipated revenues. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Fund, among other programs.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget submission. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

6. **Footnote 8, page 32:** Department of Corrections, Management, External Capacity Subprogram, Payments to House State Prisoners -- It is the intent of the General Assembly that the appropriations made for payments to private facilities housing state inmates be used exclusively for the purpose of per diem payments. It is the intent of the General Assembly that the department not withhold funds from the per diem payments to cover major medical expenses incurred by state inmates assigned to private facilities. It is the intent of the General Assembly that appropriations made in the medical services subprogram are sufficient to cover major medical expenses incurred by state inmates held in both state and private facilities.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. The department will endeavor to fund all medical services for the department out of the line item appropriation for medical services for inmates. However, the State is required to provide these medical services and a request for additional funding may occur as necessary.

7. **Footnote 8a, page 32:** Department of Corrections, Management, External Capacity Subprogram, Payments to House State Prisoners -- The General Assembly requests that Private Prison providers break out their respective operating expenses and capitol construction costs and provide this information to the Department of Corrections in the invoices that they submit to the Department of Corrections for housing Colorado inmates. The Department of Corrections is requested to submit a report to the Joint Budget Committee by November 1, 2007, summarizing this information for each of the Private Prison providers reimbursed from External Capacity Subprogram.

I am vetoing this footnote for several reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote dictates the provision of financial information from a private contractors over which neither the Department nor the State has authority. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

8. **Footnote 9, page 32:** Department of Corrections, Institutions, Youthful Offender System Subprogram -- The Department of Corrections is requested to submit a report to the Joint Budget Committee by November 1, 2007, justifying the ongoing need for the Youthful Offender System. The report is requested to summarize the cost effectiveness of the program, including the cost per offender, taking into consideration drop-out rates and recidivism rates for the program.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. In addition, the Department files an annual report on the Youthful Offender System and makes copies available to the General Assembly; the requested information is contained in that report. I will instruct the Department to comply to the extent feasible and to include the additional information requested by the General Assembly in this report.

- 9. Footnote 10, page 32:** Department of Corrections, Community Services, Community Supervision Subprogram, Community Supervision, Psychotropic Medication -- The Department is requested to submit a report to the Joint Budget Committee on or before February 1, 2008, summarizing the outcomes of offenders who were provided psychotropic medication from this line item. The report is requested to include the number of mentally ill offenders who receive medication from this line item, the regression rate of the offenders, and the number of offenders who commit new crimes. The report is requested to compare these outcomes with the population of mentally ill offenders in community corrections programs in FY 2005-06.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. However, because the funding for psychotropic medications is related to the goals reflected in my recidivism reduction package, I will instruct the Department of Public Safety to consult with the Department of Corrections and include the requested information in the evaluation of the package by using the funds appropriated for that purpose

- 10. Footnote 11, pages 32-33, 105, 219-220:** Department of Corrections, Totals; Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division; and Division of Youth Corrections; Department of Public Safety, Division of Criminal Justice -- It is the intent of the General Assembly that the impacts of the Governor's Recidivism Reduction and Offender Diversion Package funded by the General Assembly in 2007, be analyzed using contract funding appropriated for this purpose to the Department of Public Safety, Division of Criminal Justice. The evaluation should specifically address: the Short-term Intensive Residential Remediation Treatment Program (STIRRT) in the Department of Human Services, Diversion Community Corrections Beds in the Department of Public Safety, Mental Health Beds in the department of Public Safety, and any new programs or services created or implemented through additional budgetary flexibility provided to the Division of Youth Corrections in the Department of Human Services. It is the intent of the general Assembly that the

contractor compare the outcomes for offenders who participate in these programs with outcomes for offenders in predetermined control groups. The Department of Public Safety, Division of Criminal Justice, in conjunction with other state departments, is requested to submit an annual progress report to the Joint Budget Committee by November 1 of each year. This report is requested to include a summary of the number of offenders served by each program and a summary of the program evaluation techniques that will be used to examine the effectiveness of each program. The Department of Public Safety, Division of Criminal Justice, is requested to submit a final report to the Joint Budget Committee on or before November 1, 2012. The final report should specifically address whether any of the interventions funded were cost-effective and, based on this, recommendations for continuation, modification or elimination of each program.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible. Furthermore, as described in my budget request for the recidivism reduction and offender diversion package, the content described in this footnote is already part of my implementation plan.

11. **Footnote 13, page 43:** Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding -- The Department is requested to provide to the Joint Budget Committee, on or before November 1, 2007, information concerning the Colorado Preschool and Kindergarten Program. The information provided is requested to include the following for fiscal year 2006-07: (a) data reflecting the ratio of the total funded pupil count for the Program to the total funded pupil count for kindergarten; (b) data indicating the number of three-year-old children who participated in the Program; (c) data indicating the number of children who participated in the Program for a full-day rather than a half-day; (d) data indicating the number of Program FTE used to provide a full-day kindergarten component; and (e) the state and local shares of total program funding that is attributable to the Program.

I am vetoing this footnote for two reasons. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Additionally, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

12. **Footnote 15, pages 44, 78:** Department of Education, Assistance to Public Schools, Categorical Programs; and Department of Higher Education, Division of Occupational Education, Colorado Vocational Act Distributions pursuant to Section 23-8-102, C.R.S. -- The Department of Education is requested to work with the Department of Higher Education and to provide to the Joint Budget Committee information concerning the

distribution of state funds available for each categorical program excluding grant programs. The information for special education - children with disabilities, English language proficiency programs, public school transportation, Colorado Vocational Act distributions, and small attendance center aid is requested to include the following: (a) a comparison of the state funding distributed to each district or administrative unit for each program in fiscal year 2006-07 and the maximum allowable distribution pursuant to state law and/or State Board of Education rule; and (b) a comparison of the state and federal funding distributed to each district or administrative unit for each program in fiscal year 2005-06 and actual district expenditures for each program. The information for special education services - gifted and talented children is requested to include a comparison of the state funding distributed to each district or administrative unit for each program in fiscal year 2005-06 and actual district expenditures.

I am vetoing this footnote for two reasons. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Additionally, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 13. Footnote 16, page 44:** Department of Education, Assistance to Public Schools, Grant Programs and Other Distributions -- The Department is requested to provide information to the Joint Budget Committee by November 1, 2007, concerning the allocation of funding to eligible boards of cooperative services (BOCES) pursuant to Section 22-2-122 (3), C.R.S. Specifically, the Department is requested to detail the sources of funds and the allocations made to each BOCES in fiscal year 2006-07.

I am vetoing this footnote for two reasons. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Additionally, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 14. Footnote 17, page 44:** Department of Education, Library Programs, Reading Services for the Blind -- This appropriation is for the support of privately operated reading services for the blind, as authorized by Section 24-90-105.5, C.R.S. It is the intent of the General Assembly that \$150,000 of this appropriation be used to provide access to radio and television broadcasts of locally published and produced materials, and \$50,000 of this appropriation be used to provide telephone access to digital transmissions of nationally published and produced materials.

I am vetoing this footnote for two reasons. This footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Additionally, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be

included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 15. Footnote 18, page 50:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of the Governor; and Office of State Planning and Budgeting -- As part of the FY 2008-09 budget submission, the Office of State Planning and Budgeting is requested to provide a report on indirect cost recoveries from federal programs that are administered through the Office of the Governor or that are not shown elsewhere in the Long Bill. The report should include an analysis, by federal program, of: Statewide and departmental indirect costs collected in FY 2005-06 and FY 2006-07; where funds collected were spent; the potential for additional indirect cost collections in FY 2007-08 and future years; and the potential for offsetting General Fund expenditures in the Office of the Governor or other departments through these collections. For each federal program that was not assessed statewide and departmental indirect costs, the report should explain why these costs were not assessed.

I am vetoing this footnote for five reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget submission. Fourth, the General Assembly has no authority to appropriate federal funds. Finally, the Governor's Office is already part of the statewide indirect cost plan developed by the Department of Personnel; thus, provision of this information would be redundant.

- 16. Footnote 19, pages 50-51:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of State Planning and Budgeting -- The Office of State Planning and Budgeting is requested to work with the Joint Budget Committee staff to draft a report concerning the common policy for provider rates. The report should consider the following factors: Distinguishing providers serving Colorado's most vulnerable populations; salaries and benefits; turn-over rates and attrition among staff. Targeted provider rate increases that deviate from the common policy provider rate based on inequity among providers should be considered. The report should be submitted to the Joint Budget Committee by October 1, 2007.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 17. Footnote 20, pages 51, 178:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of State Planning and Budgeting; and Department of Personnel and Administration, Division of Human Resources, Human Resource Services -- The

Department of Personnel and Administration shall comply with the statutory provisions of Section 24-50-110 (1)(d), C.R.S., and is requested to provide other state departments with the information necessary to comply with this statute. The Office of State Planning and Budgeting and the Department of Personnel and Administration are requested to work with the departments to improve the timeliness and accuracy of information about state personnel. Improvements, at a minimum, should include: updating personnel information on a centralized computerized database; accurate reporting of filled FTE positions; number of reclassifications that are approved; turnover rates by agency; tracking of FTE positions funded to FTE positions filled; an accurate count of part-time and temporary FTE positions; and elimination of unused FTE positions. The Department of Personnel and Administration and the Office of State Planning and Budgeting are requested to submit a consolidated statewide personnel report to the General Assembly by September 1, 2007. This report should include, by line item and department, a summary of vacant positions, the length of time each position has been vacant, and the number of reclassifications that were approved in FY 2006-07.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Finally, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. Notwithstanding this veto, I will direct the departments to comply with this footnote to the extent feasible.

- 18. Footnote 21, page 65:** Department of Health Care Policy and Financing, Executive Director's Office -- The Department is requested to submit monthly Medicaid expenditure and caseload reports on the Medical Services Premiums budget to the Joint Budget Committee, by the third Monday of each month. The Department is requested to include in the report the managed care organization caseload by aid category. The Department is also requested to provide caseload and expenditure data for the Children's Basic Health Plan within the monthly report.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 19. Footnote 22, page 65:** Department of Health Care Policy and Financing, Executive Director's Office -- The Department is requested to submit a plan to the Joint Budget Committee on or before October 1, 2007, on how to restructure the Executive Director's Office Division's line item appropriations into a more programmatic format than the current Long Bill structure.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget submission.

- 20. Footnote 23, pages 65-66:** Department of Health Care Policy and Financing, Executive Director's Office -- The Department is requested to provide a report to the Joint Budget Committee by November 1, 2007 regarding the amount spent on pharmaceuticals by each managed care organization (MCO) that contracts with the Department in the Medicaid program. Included in the report should be information on the prices that each MCO pays for each prescription drug provided on its formulary. The report should compare the prices that each MCO pays compared to the prices the Department pays in the fee-for-service program for the same drug. In making such comparison, the Department should include in its pricing the amount of rebates that the Department receives from drug manufacturers for each drug. The report should also provide information on which drugs are covered on each MCO's formulary compared to the list of drugs available in the fee-for-service program.

I am vetoing this footnote for several reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Furthermore, this footnote dictates the provision of financial information from a private contractor over which neither the Department nor the State has authority.

- 21. Footnote 24, page 66:** Department of Health Care Policy and Financing, Executive Director's Office, Primary Care Provider Rate Task Force and Study -- The Department is requested to work with the provider community to examine any issues of rate disparity and rate shortfalls for physician and acute care providers. The Department is requested to report on its final analysis by November 1, 2007. The Department's appropriation contains \$19,334 total funds for the expenses of any task force that the Department may assemble and for temporary staffing costs for conducting such a study.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 22. Footnote 25, page 66:** Department of Health Care Policy and Financing, Medical Services Premiums -- The Department is requested to submit a report on the managed care organizations' capitation rates for each population and the estimated blended rate for each

aid category in effect for FY 2007-08 to the Joint Budget Committee by July 25, 2007. The Department is requested to include in the report a copy of each managed care organization's certification that the reimbursement rates are sufficient to assure the financial stability of the managed care organization with respect to delivery of services to the Medicaid recipients covered in their contract pursuant to Section 25.5-5-403 (1) (L), C.R.S.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 23. Footnote 27, page 66:** Department of Health Care Policy and Financing, Medical Services Premiums -- The General Assembly has determined that the average appropriated rates provide sufficient funds to pay reasonable and adequate compensation to efficient and economical providers. It is the intent of the General Assembly that the Department take actions to ensure that the average appropriated rates are not exceeded.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 24. Footnote 28, page 66:** Department of Health Care Policy and Financing, Medical Services Premiums -- The calculations for this line item include \$5,081,736 total funds for a 1.5 percent reimbursement rate increase for home and community-based long-term care providers, home health, and private-duty nursing beginning in July 1, 2007. It is the intent of the General Assembly that the Medical Services Board adopt rules to increase reimbursement rates for these provider codes consistent with this footnote. The Joint Budget Committee requests that the Department provide a report to the Joint Budget Committee by August 1, 2007, on the status of the rules adopted by the Medical Services Board regarding this reimbursement rate increase.

I am vetoing this footnote for several reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. In addition, this rate change does not require rule changes from the Medical Services Board. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 25. Footnote 29, pages 66-67:** Department of Health Care Policy and Financing, Medical Services Premiums -- The calculations for this line item include \$15,987,854 total funds for rate increases for acute care services. Included in this calculation is \$4,446,001 for a 1.5 percent increase to inpatient hospital rates. The remaining \$11,541,853 is for rate increases for other acute care services approved by the Joint Budget Committee based on the rate plan that the Department submitted to the Joint Budget Committee on November 1, 2006. The Joint Budget Committee requests that the Department provide a report to the Joint Budget Committee by August 1, 2007, on the status of the rules adopted by the Medical Services Board regarding these rate increases.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 26. Footnote 30, page 67:** Department of Health Care Policy and Financing, Indigent Care Program, Safety Net Provider Payments -- The Department is requested to submit a report by February 1, 2008, to the Joint Budget Committee, estimating the disbursement to each hospital from the Safety Net Provider Payment line item for FY 2007-08.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 27. Footnote 31, page 67:** Department of Health Care Policy and Financing, Indigent Care Program, The Children's Hospital, Clinic Based Indigent Care -- This line item includes \$10,086,000 for funding for community health centers from the Health Care Services Fund pursuant to the requirements in S.B. 06-044. The Joint Budget Committee is aware that the Department may be able to enter into contracts with eligible hospitals to draw down matching federal funds for this funding. The Joint Budget Committee requests that the Department submit a report by February 1, 2008 to the Joint Budget Committee describing any federal financial participation received.

I am vetoing this footnote for several reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Furthermore H.B. 07-1258, which I signed on April 16, 2007, serves the same function as this footnote, demonstrating that substantive legislation is required to achieve the purpose of

this footnote. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 28. Footnote 32, page 67:** Department of Health Care Policy and Financing, Indigent Care Program, Health Care Services Fund Programs -- Senate Bill 06-044 required the Department to submit a state plan amendment for federal financial participation for moneys appropriated to primary care clinic operated by a licensed or certified health care facility. Senate Bill 06-044 authorizes the Department to receive and expend all available federal moneys without a corresponding reduction in cash funds exempt spending authority from the fund if the state plan amendment is approved. The Joint Budget Committee requests that the Department submit a report by February 1, 2008 to the Joint Budget Committee on the status of the state plan amendment and on whether or not any additional federal match is available for distribution.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 29. Footnote 35, pages 67-68:** Department of Health Care Policy and Financing, Other Medical Services, Services for Old Age Pension State Medical Program clients -- The Department is requested to submit a report by November 1, 2007 recommending changes to the benefit structure or eligibility criteria for the Old Age Pension State Medical Program in order to stay within the current statutory appropriation limits for the program. The report should include the most recent five-year expenditure history for the different medical services categories used by this population. In addition, the report should include a five-year forecast for the caseload and cost of this program if benefits are not reduced.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 30. Footnote 36, page 68:** Department of Health Care Policy and Financing, Other Medical Services, S.B. 97-101 Public School Health Services -- The Department is requested to submit a report by November 1 of each year to the Joint Budget Committee on the services that receive reimbursement from the federal government under S.B. 97-101 public school health service program. The report should include information on the type of services, how those services meet the definition of medical necessity, and the total amount of federal dollars that was distributed to each school under the program. The report should also include information on how many children were served by the program.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 31. Footnote 38, page 78:** Department of Higher Education, Colorado Commission on Higher Education, Administration -- The Department should continue its efforts to provide data on the efficiency and effectiveness of state financial aid in expanding access to higher education for Colorado residents. The Department is requested to provide to the Joint Budget Committee by November 1 of each year an evaluation of financial aid programs, which should include, but not limited to: 1) An estimate of the amount of federal, institutional, and private resources (including tax credits) devoted to financial aid; 2) the number of recipients from all sources; 3) information on typical awards; and 4) the typical debt loads of graduates. To the extent possible, the Department should differentiate the data based on available information about the demographic characteristics of the recipients. To the extent that this information is not currently available, the Department is requested to provide a reasonable estimate, or identify the additional costs that would be associated with collecting the data.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. In addition, all of the data for the most recent fiscal year is not available to the department in time to meet the November 1 reporting date; instead, January of the following year is the earliest deadline feasible for the department to provide an accurate report based upon the most current data. Thus, notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 32. Footnote 39, page 78:** Department of Higher Education, Colorado Commission on Higher Education, Administration -- The Department is requested to submit a report to the Joint Budget Committee by November 1, 2007, comparing the retention rates of students receiving Governor's Opportunity Scholarships with retention rates for low-income students receiving other types of financial aid packages.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Because the Governor's Opportunity Scholarships program is being phased out, I will direct the Department not to comply.

- 33. Footnote 40, page 78:** Department of Higher Education, Colorado Commission on Higher Education, Administration -- The Department is requested to submit a report to the Joint Budget Committee by November 1 each year documenting the base level of institutional financial aid at each institution and demonstrating that at least 20 percent of any increase in undergraduate resident tuition revenues in excess of inflation is being devoted to need-based financial assistance pursuant to section 23-18-202 (3) (c), C.R.S.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. In addition, all of the data for the most recent fiscal year is not available to the department in time to meet the November 1 reporting date; instead, January of the following year is the earliest deadline feasible for the department to provide an accurate report based upon the most current data. Thus, notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 34. Footnote 41, page 78:** Department of Higher Education, Colorado Commission on Higher Education, Administration -- The Department is requested to submit a report to the House and Senate Education Committees and the Joint Budget Committee by November 1, 2007 analyzing the impact of need-based financial aid programs on the recruitment, retention, and academic performance of under-served students, and making recommendations for improvement.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. In addition, all of the data for the most recent fiscal year is not available to the department in time to meet the November 1 reporting date; instead, January 2, 2008 is the earliest deadline feasible for the department to provide an accurate report based upon the most current data. Thus, notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 35. Footnote 50, page 105:** Department of Human Services, Executive Director's Office, General Administration, Injury Prevention Program -- The Department is requested to provide information regarding the cost-effectiveness of this program. Such information should include: Actual and planned annual expenditures for this line item, by program; the actual number of workers' compensation claims filed, by type of injury and by program; and the related costs associated with workers' compensation claims filed, by type of injury and by program. This information should be provided to the Joint Budget Committee annually on or before October 15.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 36. Footnote 52, pages 105-106:** Department of Human Services, Office of Operations; Department Totals -- The Department is requested to examine its cost allocation methodology and report its findings to demonstrate that all state-wide and departmental indirect costs are appropriately collected and applied. The Department is requested to submit a report to the Joint Budget Committee on or before November 15, 2007, that should include: (1) Prior year actual indirect costs allocated by division and corresponding earned revenues by type (cash, cash exempt, and federal); (2) the amount of such indirect costs applied within each division and to Department administration line items in the Executive Director's Office, Office of Operations, and Office of Information Technology Services; (3) a comparison between indirect amounts applied and the amounts budgeted in the Long Bill; and (4) a schedule identifying areas in which collections could potentially be increased and a description of the obstacles to such increases where the discrepancy between the potential and actual collections is \$50,000 or more.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 37. Footnote 56, page 106:** Department of Human Services, Division of Child Welfare -- The Department is requested to provide to the Joint Budget Committee, by November 1, 2007, information concerning the gross amount of payments to child welfare service providers, including amounts that were paid using revenues other than county, state, or federal tax revenues. The Department is requested to identify amounts, by source, for the last two actual fiscal years.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 38. Footnote 57, page 106:** Department of Human Services, Division of Child Welfare -- The Department is requested to report on a proposal for a rate-setting process consistent with Medicaid requirements for providers of residential treatment services in the state of

Colorado. It is anticipated that counties and the provider community will participate in the actual development of the rate-setting process. The Department is requested to report to the Joint Budget Committee on or before January 1, 2008, on a range for reimbursement for residential treatment services that represents a base-treatment rate for serving a child who is subject to out-of-home placement. The base-treatment rate is anticipated to be based on a defined service package to meet the needs of the child. The Department is requested to include recommendations for a two- or three-year implementation plan for the proposed rate structure.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, H.B. 07-1025 which I signed into law on April 26, 2007, serves the same function as this footnote, rendering this footnote redundant. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent required by H.B. 07-1025.

- 39. Footnote 58, page 107:** Department of Human Services, Division of Child Welfare, Child Welfare Services -- The Department is requested to provide to the Joint Budget Committee, by November 1, 2007, information concerning actual expenditures for the last two fiscal years for services that are now funded through this consolidated line item. Such data should include the following: (a) Program services expenditures and the average cost per open involvement per year; (b) out-of-home placement care expenditures and the average cost per child per day; and (c) subsidized adoption expenditures and the average payment per child per day.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 40. Footnote 61, page 107:** Department of Human Services, Division of Child Welfare, Family and Children's Programs -- It is requested that \$4,028,299 of the funds appropriated for this line item be used to assist county departments of social services in implementing and expanding family- and community-based services for adolescents. It is the intent of the General Assembly that such services be based on a program or programs that have been demonstrated to be effective in reducing the need for higher cost residential services.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32

of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 41. Footnote 63, page 108:** Department of Human Services, Division of Child Care, Child Care Assistance Program Automated System Replacement; and Capital Construction, Department of Human Services, Division of Child Care, Capital Construction, Child Care Assistance Tracking System -- It is the intent of the General Assembly that this project: 1) have a steering committee that includes a county commissioner, a county human services director, and a user of the system; 2) that the Department pilot the program before rolling it out; 3) that the steering committee, including the county representatives, should decide whether the system is "go" or "no go" at the roll out stages; and 4) that ongoing costs for maintenance and administration of this system be covered through savings in or reductions to the Colorado Child Care Assistance Program and remaining Child Care Development Fund reserves. The new system will not drive additional costs to the state General Fund.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 42. Footnote 64, page 108:** Department of Human Services, Office of Self Sufficiency, Colorado Works Program, County Block Grants -- Pursuant to sections 26-2-714 (7) and 26-2-714 (9), C.R.S., under certain conditions, a county may transfer federal Temporary Assistance for Needy Families (TANF) funds within its Colorado Works Program Block Grant to the federal child care development fund or to programs funded by Title XX of the federal Social Security Act. One of the conditions specified is that the amount a county transfers must be specified by the Department of Human Services as being available for transfer within the limitation imposed by federal law. It is the intent of the General Assembly that the Department allow individual counties to transfer a greater percent of federal TANF funds than the state is allowed under federal law as long as: (a) Each county has had an opportunity to transfer an amount up to the federal maximum allowed; and, (b) the total amount transferred statewide does not exceed the federal maximum.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 43. Footnote 66, page 108:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Administration, Personal Services -- The purpose of this

appropriation is for the payment of all salaries and other related personal services costs. It is the intent of the General Assembly that the Department not bill these expenses to any program line items.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 44. Footnote 67, page 108:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Administration, Traumatic Brain Injury Trust Fund -- It is the intent of the General Assembly that no more than 7.5 percent of total expenditures in this line item be for administrative expenses. The Department is requested to include information in its budget request demonstrating compliance with this intent.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget submission. Notwithstanding this veto, I will direct the Department to provide the information requested on the program's administrative requirements and costs.

- 45. Footnote 69, page 109:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Community Programs, Mental Health Services for the Medically Indigent, Services for 10,296 Indigent Mentally Ill Clients -- It is the intent of the General Assembly that this money be used solely as a direct services pass-through to community mental health centers.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 46. Footnote 70, page 109:** Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Institutes -- It is the intent of the General Assembly that civil allocated beds be distributed in a manner such that clients may be served in a mental health institute in closer geographic proximity to the clients' respective homes. Best practices dictate that the provision of care should occur in the closest proximity to family and support in order to facilitate recovery. The Department's 20-year-old bed allocation

plan does not follow this best practice. The Department is requested to provide a report by November 1, 2007, on the options and recommendations for addressing this problem, taking into consideration the limits on available state funding.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates Article V, Section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote.

47. Footnote 72, page 109: Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Mental Health Institutes -- The Department is requested to provide the Joint Budget Committee with copies of the quarterly reports on waiting times for competency evaluation and treatment at the Mental Health Institute at Pueblo (CMHIP) that are required pursuant to the *State of Colorado v. Zuniga, Sims and Kirkwood* lawsuit settlement. Such reports shall exclude any personally-identifiable information. The Department is further requested to provide a report to the Joint Budget Committee by November 1, 2007, identifying options and recommendations for ensuring that the waiting list for competency restoration and evaluations at CMHIP does not exceed settlement requirements in the future. The report should include an evaluation of the options for promoting and improving the provision of mental health services in jails to minimize the need for competency restorations and evaluations at CMHIP.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote.

48. Footnote 73, page 110: Department of Human Services, Mental Health and Alcohol and Drug Abuse Services, Alcohol and Drug Abuse Division, Community Programs, Treatment Services, Treatment and Detoxification Contracts -- This appropriation was calculated with the following increases for the following purposes: (1) an increase of \$395,500 General Fund for the purpose of providing residential treatment for parenting female offenders with substance abuse and co-occurring mental illness who are at high risk to enter jail or prison as a result of substance abuse. The program is anticipated to include a 60 day residential program plus 16 week aftercare program and to serve 30 families over the course of a year; (2) an increase of \$310,661 for the purpose of supporting the first year of a two-year project that will enable a managed service organization to acquire, expand, and maintain software for a performance monitoring and treatment outcomes information system. This system, when implemented, is anticipated to enable Colorado's managed services organizations to monitor and improve the performance of alcohol and drug abuse treatment providers in their networks; (3) an increase of \$288,000 General Fund for the purpose of supporting enhanced multi-systemic family therapy services for adolescents using a

community reinforcement approach. This funding is anticipated to partially fund such services in the Denver metropolitan area for 120 adolescents per month who have co-occurring psychiatric and substance abuse disorders. It is the intent of the General Assembly that these services show effectiveness in reducing the need for higher-cost residential services; (4) an increase of \$160,000 General Fund for the purpose of dividing the additional funds equally between the Trinidad and Las Animas detoxification facility and the San Luis Valley detoxification facility.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

49. Footnote 74, page 110: Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Community Services; and Division of Vocational Rehabilitation -- The Division of Vocational Rehabilitation is requested to conduct a study to determine how to increase employment outcomes for people with developmental disabilities. The study should include input from the Division for Developmental Disabilities, the supported employment users, their families, and service providers. The Department is requested to submit a report to the Joint Budget Committee by October 1, 2007, setting forth options and recommendations, including implementation strategies, for increasing integrated employment outcomes for people with developmental disabilities.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate.

50. Footnote 75, page 110: Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Community Services; and Division of Vocational Rehabilitation, Rehabilitation Programs - Local Funds Match -- The Department is requested to provide a report to the Joint Budget Committee, by November 1, 2007, on the impact of the Developmental Disabilities and Vocational Rehabilitation Pilot Project. The report should include the numbers of persons served, employment outcomes achieved, lessons learned, and recommendations for expansion, reduction, or modification of the program.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that

cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 51. Footnote 77, pages 110-111:** Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Community Services, Program Costs -- The Department is requested to periodically survey all individuals on the comprehensive services waiting list to determine when each individual will need comprehensive services. The Department is requested to complete the next survey no later than June, 2007, and to report the results no later than in the submission of the FY 2008-09 budget request to the Joint Budget Committee.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote requires a substantial dedication of resources and constitutes an unfunded mandate. Depending on the Division of Developmental Disability workload related to complying with the Centers for Medicaid and Medicare plan of correction I am directing the Department to comply with this footnote to the extent feasible.

- 52. Footnote 78, page 111:** Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Community Services, Program Costs -- The Department is requested to provide a report to the Joint Budget Committee, by November 1, 2007, concerning the distribution of resources among the 20 Community Centered Boards throughout the state. This report should address the current distribution methodology, and should take into consideration all relevant factors, including: The effect of population migration; de-institutionalization; and the extent resources should be allocated based on a community's per capita distribution of the general population. In the process of completing the report, the Department shall work closely with all Community Centered Boards. Additionally, until this report has been submitted to and considered by the Joint Budget Committee, it is the intent of the General Assembly that no resources be redistributed among CCBs through attrition or any other mechanism.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Furthermore, adhering to this footnote would prevent the Department from allocating resources in response to emergencies, thus I am directing the Department not to comply.

- 53. Footnote 79, page 111:** Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Community Services, Program Costs -- The Department is requested to provide a report to the Joint Budget Committee, by

November 1, 2007, concerning recommendations for a five-year plan that addresses the elimination of all waiting lists for services for individuals with developmental disabilities. In the process of completing the report, the Department should work closely with all Community Centered Boards, as well as all other interested consumers and providers. The plan should address the current waiting list situation, and should take into consideration, among other factors, the total amount of money necessary for its implementation, increases in Colorado's population over the five-year period, the number of persons on the waiting lists who are living with aging care givers, and recommendations for the allocation of new funding for persons on the waiting lists. The report should specifically consider the costs of eliminating waiting lists for individuals with developmental disabilities considered at high risk of out-of-home placement due to their aging care givers or medical or behavioral needs.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Depending on the Division of Developmental Disability workload related to complying with the Centers for Medicaid and Medicare plan of correction I am directing the Department to comply with this footnote to the extent feasible.

54. Footnote 81, page 111: Department of Human Services, Services for People with Disabilities, Developmental Disability Services, Community Services, Federal Special Education Grant for Infants, Toddlers, and Their Families (Part C) -- The Department is requested to provide to the Joint Budget Committee, by November 1 of each year, information concerning the expenditure of federal funds provided pursuant to Part C of the federal "Individuals with Disabilities Education Act" for the most recent state fiscal year. Such information is requested to include sufficient detail to identify expenditures related to the provision of direct services, by type of service.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

55. Footnote 82, page 112: Department of Human Services, Services for People with Disabilities, Division of Vocational Rehabilitation, Rehabilitation Programs - Local Funds Match -- The Department is requested to provide a report to the Joint Budget Committee, by November 1 of each year, that details deferred cash and cash exempt revenue on its books as of the close of the preceding fiscal year.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to

administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 56. Footnote 84, page 112:** Department of Human Services, Division of Youth Corrections, Administration -- The Division is requested to continue its efforts to provide outcome data on the effectiveness of its programs. The Division is requested to provide to the Joint Budget Committee, by January 1 of each year, an evaluation of Division placements, community placements, and nonresidential placements. The evaluation should include, but not be limited to, the number of juveniles served, length of stay, and recidivism data per placement.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Nonetheless, because I am committed to reducing recidivism and studying the effectiveness of these programs, I will direct the department to comply with this footnote to the extent feasible.

- 57. Footnote 85, page 112:** Department of Human Services, Division of Youth Corrections, Administration -- It is the intent of the General Assembly that the Department provide a report to the Joint Budget Committee on January 1, 2008 which tracks and compares recidivism rates between those juveniles receiving drug and alcohol treatment and those not receiving treatment, while sentenced to commitment.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Nonetheless, because I am committed to reducing recidivism and studying the effectiveness of these programs, I will direct the department to comply with this footnote to the extent feasible.

- 58. Footnote 87, page 113:** Department of Human Services, Division of Youth Corrections, Community Programs, S.B. 91-94 Programs -- The Department is requested to submit to the Joint Budget Committee no later than November 1 of each year a report that includes the following information by judicial district and for the state as a whole: (1) Comparisons of trends in detention and commitment incarceration rates; (2) profiles of youth served by S.B. 91-94; (3) progress in achieving the performance goals established by each judicial district; (4) the level of local funding for alternatives to detention; and (5) identification and

discussion of potential policy issues with the types of youth incarcerated, length of stay, and available alternatives to incarceration.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Nonetheless, because I am committed to reducing recidivism and studying the effectiveness of these programs, I will direct the department to comply with this footnote to the extent feasible.

- 59. Footnote 88, page 113:** Department of Human Services, Totals -- The General Assembly requests that the Executive Director of the Department submit annually, on or before November 1, a report to the Joint Budget Committee concerning the amount of federal Temporary Assistance for Needy Families (TANF) funds available in the Long-term Works Reserve Fund. The requested report should include the following: (a) The amount of TANF funds expended, by Long Bill line item, for FY 2006-07, and the amount of TANF funds requested, by Long Bill line item, for FY 2007-08; (b) the amount of federal TANF funds transferred by each individual county, for FY 2006-07, including details regarding the program area to which each county transferred such funds; (c) the amount of any prior year appropriations of federal TANF funds that have been rolled forward to the current state fiscal year; (d) estimated expenditures of federal TANF funds for the current year and immediately following state fiscal year; (e) the total amount of TANF funds available to Colorado for state fiscal years FY 2006-07, FY 2007-08 and FY 2008-09, including funds rolled forward from previous state fiscal years; (f) the amount of federal TANF funds that remain available in each county's Works Program Reserve Account as of July 1 of the current state fiscal year; (g) a demonstration that the total amount of federal TANF funds requested in its annual budget request for state fiscal year 2008-09 does not exceed an amount anticipated to be available to the State; and (h) a demonstration that the information provided in the report is consistent with related financial information reported to the federal government.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 60. Footnote 89, pages 113-114:** Department of Human Services, Totals -- The General Assembly requests that the Executive Director of the Department submit annually, on or before November 1, a report to the Joint Budget Committee concerning federal Child Care Development Funds. The requested report should include the following information related to these funds for state fiscal year 2006-07: (a) The total amount of federal funds available to Colorado, including funds rolled forward from previous state fiscal years; (b)

the amount of federal funds expended, by Long Bill line item; (c) the amount of funds expended, by Long Bill line item where applicable, that were reported to the federal government as either maintenance of effort or matching funds associated with the expenditure of federal funds; (d) a demonstration that the information provided in the report is consistent with related financial information reported to the federal government; (e) the amount of funds expended that met the four percent federal requirement related to quality activities; and (f) the amount of funds expended that met earmark requirements. In addition, the report should include the following information related to federal Child Care Development Funds for state fiscal years 2007-08 and 2008-09 : (a) The total amount of federal funds estimated to be available to Colorado, including a break out of new allocations and funds rolled forward from previous state fiscal years, and the federal classification of all such funds as mandatory, matching or discretionary; (b) the amount of federal funds estimated and requested to be expended, by Long Bill line item; (c) the amount of state or local expenditures that are anticipated to be required to comply with federal maintenance of effort and matching requirements; (d) the amount of funds estimated to be expended, by Long Bill line item where applicable, that are anticipated to be reported to the federal government as either maintenance of effort or matching funds associated with the expenditure of federal funds; (e) the amount of funds estimated to be required to comply with federal earmark and four percent quality requirements; and (f) estimated and requested expenditures, by line item, anticipated to be used to comply with federal earmark and four percent quality requirements.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 61. Footnote 100, page 148:** Department of Local Affairs, Division of Housing -- The Division of Housing is requested to provide a report to the Joint Budget Committee by November 1, 2007, on its efforts to eliminate regulatory barriers to the construction of affordable housing. The report should include a review of the types and prevalence of local regulatory barriers to affordable housing, a review of the steps the Division of Housing is taking to reduce these barriers, and a report on the effectiveness of the Division's efforts.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 62. Footnote 103a, page 165:** Department of Natural Resources, Oil and Gas Conservation Commission, Program Costs -- It is the intent of the General Assembly that, of the 4.0 new FTE approved for FY 2007-08, 1.0 FTE be located in Rifle for enforcement purposes.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. However, I too am concerned that the Department deploy adequate resources to protect public health, safety and the environment through effective enforcement of oil and gas regulations. Nevertheless, this footnote is not necessary because the Oil and Gas Conservation Commission has recently increased on-site staff in the Rifle area to 6.0 FTE (including enforcement staff) and has secured funding through this budget to open an office in Rifle.

- 63. Footnote 106, page 165:** Department of Natural Resources, Parks and Outdoor Recreation, State Park Operations -- The Division of Parks and Outdoor Recreation is requested to provide the Joint Budget Committee with a status report on the deployment of the Voice Over Internet Protocol (VOIP) System. This report is requested to include a summary of costs to implement the system and a summary of savings and cost avoidance attributable to the system. This report is requested to be submitted to the Joint Budget Committee by June 30, 2008.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply.

- 64. Footnote 107, page 179:** Department of Personnel and Administration, Central Services, Facilities Maintenance, Capitol Complex Facilities, Utilities; Grand Junction State Services Building, Utilities; Camp George West, Utilities; Finance and Procurement, Real Estate Services Program, Coordination of Capital Construction, Controlled Maintenance Requests, and Building Lease Review -- The Department of Personnel is requested to coordinate a statewide review and summary of utility costs contained in the budget. This review should include, but not necessarily be limited to, information on the steps taken in FY 2006-07 and FY 2007-08 to address efficiencies in utility programs, areas where the state can save money on utility expenditures through efficiencies, where available, and a report on all utility cost savings contracts negotiated through the statutory authority granted in section 24-30-2003, C.R.S. This report should contain information on contracts entered into since FY 2004-05, by department, the scope of the contract, including length and work performed, and the cost savings that will be achieved as a result. The General Assembly requests this information be submitted on November 1, 2007.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that

cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 65. Footnote 107a, page 179:** Department of Personnel and Administration, Division of Information Technology, Network Services, Operating Expenses -- The Department is requested to submit a report by October 1, 2007, to the Joint Budget Committee, detailing the status and current plan for the Multiuse Network. As part of the report, the Department is requested to elaborate on how it plans to fully develop broadband connectivity throughout the State of Colorado and opportunities to accelerate that plan.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 66. Footnote 108, page 204:** Department of Public Health and Environment, Air Quality Control Division -- The Department is requested to submit a report on the Air Quality Control Division. This report is requested to include a summary of the Division's current and anticipated workload, including the impact of existing and proposed federal and state program requirements, as well as the associated funding and staffing needs. This report is requested to include information on the upcoming fiscal year and out-years. The Department is requested to submit this report to the Joint Budget Committee with its budget request.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget submission. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 67. Footnote 108a, page 205:** Department of Public Health and Environment, Air Quality Control Division, Technical Services, Air Quality Monitoring, Local Contracts -- It is the intent of the General Assembly that at least \$380,000 of this appropriation be used for the collection and evaluation of air quality data on the Western Slope of Colorado.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. However, I am committed to improving air quality on the Western Slope as evidenced by the budget

amendment my administration submitted in January to address the air quality monitoring needs of the Western Slope. Therefore, notwithstanding this veto, I will direct the department to comply with this footnote to the extent outlined in the approved budget amendment.

- 68. Footnote 109, page 205:** Department of Public Health and Environment, Water Quality Control Division -- The Department is requested to submit a report on the Water Quality Control Division. This report is requested to include a summary of the Division's current and anticipated workload, including the impact of existing and proposed federal and state program requirements, as well as the associated funding and staffing needs. This report is requested to include information on the upcoming fiscal year and out-years. The Department is requested to submit this report to the Joint Budget Committee with its budget request.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget submission. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 69. Footnote 110, page 205:** Department of Public Health and Environment, Hazardous Materials and Waste Management Division, Contaminated Site Cleanups -- The Department is requested to submit a report on its CERCLA program. This report is requested to include detailed expenditures for the program, including out-year estimates by project and associated project financing. The report should also include an analysis of long-term funding needs of the State in responding to, litigating, and cleaning up CERCLA sites, including estimated long-term maintenance costs for these sites. The report should also provide information on the Hazardous Substance Response Fund balance and out-year fiscal estimates. The Department is requested to submit this report to the Joint Budget Committee with its budget request.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget submission. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 70. Footnote 113, pages 205-206:** Department of Public Health and Environment, Prevention Services Division, Prevention Programs, Chronic Disease and Cancer Prevention Grants -- The General Assembly accepts no obligation to continue funding for these programs when

federal funds are no longer available. Any match requirements for these federal grants are to be provided by non-state sources. The Department is requested to document the sources of matching funds, which documentation should be submitted to the Joint Budget Committee annually with its budget request, to serve as proof of the required state match for these federal dollars.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote violates the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget submission. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 71. Footnote 114, page 206:** Department of Public Health and Environment, Prevention Services Division, Women's Health - Family Planning -- Pursuant to Article V, Section 50, of the Colorado Constitution, no public funds shall be used by the State of Colorado, its agencies or political subdivisions to pay or otherwise reimburse, either directly or indirectly, any person, agency or facility for the performance of any induced abortion, provided however, that the General Assembly, by specific bill, may authorize and appropriate funds to be used for those medical services necessary to prevent the death of either a pregnant woman or her unborn child under circumstances where every reasonable effort is made to preserve the life of each.

I am vetoing this footnote for several reasons. First, this footnote is unnecessary and redundant to the extent it simply restates the requirements of Article V, Section 50 of the Colorado Constitution. Second, to the extent the footnote contains restrictions or limitations beyond those provided for in the Colorado Constitution, this footnote violates the separation of powers in Article III by attempting to administer the appropriation and article V, section 32 because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent required by Article V, Section 50 of the Colorado Constitution.

- 72. Footnote 115, page 206:** Department of Public Health and Environment, Prevention Services Division, Prevention Partnerships, Tony Grampas Youth Services Program, Prevention Services Programs -- The Department is requested to submit a report to the Joint Budget Committee on the Tony Grampas Youth Services Program by October 20, 2007. This report should include the following information for Fiscal Year 2006-07: (1) Names of all applicants and the amount requested by each; (2) names of all grantees, amount of each grantee's award, period covered by each grant, the number of years each grantee has previously received grants, the number of persons served under the grant, a brief description of the funded program; (3) an estimate of the amount of time that grantees

must devote to grant reporting requirements; and (4) the number of site visits conducted by program staff.

I am vetoing this footnote for several reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. In addition, all of the data is not available to the department in time to meet the October 20, 2007 reporting deadline; instead, February 1, 2008, the date that the department has historically provided its report, is the earliest deadline feasible for the department to provide the requested report. Thus, notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

73. Footnote 116, page 206: Department of Public Health and Environment, Prevention Services Division, Family and Community Health, Child Adolescent, and School Health, Nurse Home Visitor Program -- The Department is requested to submit a report to the Joint Budget Committee with regard to the amount of federal Medicaid funding being drawn by Nurse Home Visitor-contracted agencies for providing Targeted Case Management services to Medicaid-eligible families. The report should be submitted on or before November 1, 2007. Reporting should include, but not be limited to: The number of Medicaid- eligible clients served and the amount of Targeted Case Management services billed.

I am vetoing this footnote for several reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. In addition, all of the data is not available to the department in time to meet the October 20, 2007 reporting deadline; instead, February 1, 2008, the date that the department has historically provided its report, is the earliest deadline feasible for the department to provide the requested report. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

74. Footnote 117, page 220: Department of Public Safety, Colorado State Patrol -- The Department is requested to submit to the Joint Budget Committee a detailed summary of FTE assigned to the field and to special programs on an annual basis beginning on November 1, 2006. Each annual report should include comparative information about the historical assignment of all uniformed positions, vacant positions, State Patrol Academy graduates, employee turnover (including service and disability retirements), and trooper deployment.

I am vetoing this footnote for several reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32

of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Furthermore, the General Assembly is not authorized to appropriate FTE. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 75. Footnote 120, page 226:** Department of Regulatory Agencies, Executive Director's Office and Administrative Services -- The Department is requested to submit a report to the Joint Budget Committee by October 1, 2007 on the Office of Expedited Settlement within the Division of Registrations. The report shall include quantitative measures that can be used to assess the program and a recommendation, based on those measures, to continue, modify or discontinue the program.

I am vetoing this footnote for several reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote essentially requires the department to provide a sunset review and report for which there is separate authorizing statutory direction per C.R.S. § 24-34-104(8)(a)(I). Notwithstanding this veto, I will direct the Department to comply with this footnote to the extent required by statute.

- 76. Footnote 121, page 239:** Department of Revenue, State Lottery Division -- Under Section 24-35-202, C.R.S., the state lottery division shall be headquartered in the city of Pueblo. It is the intent of the General Assembly that at least one of the incumbents of the 3.0 FTE management positions of the state lottery division shall be located in the city of Pueblo.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill.

- 77. Footnote 122, page 245:** Department of Transportation, Administration -- The Department is requested to complete state budget forms for Administration personal services that provide information for each office or section within the Administration line item. This information should be sufficiently detailed to allow calculation of personal services. PERA and Medicare is requested to be provided by the individual section or office. Additionally, the Department is requested to include subtotals for salary and FTE for each of the offices within the Administration line item information currently supplied.

I am vetoing this footnote for three reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Third, this footnote violates

the separation of powers in Article III of the Colorado Constitution by dictating the format of the executive budget submission. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 78. Footnote 122a, page 245:** Department of Transportation, Statewide Tolling Enterprise -- Within 120 days the Department shall develop rules to allow hybrid vehicles to drive in High Occupancy Vehicle lanes.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the Department to evaluate the environmental, fiscal, congestion and maintenance impacts of allowing hybrid vehicles to operate within high occupancy vehicle and high occupancy toll lanes consistent with federal laws and processes.

SECTION 3: CAPITAL CONSTRUCTION

- 1. Capital Construction. Footnote 1, page 276:** Capital Construction, Department of Corrections, Capital Construction, Correctional Industries, Minor Construction Projects -- The Department of Corrections is requested to submit an annual report to the Capital Development and Joint Budget Committees detailing expenditures made from this appropriation.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 2. Capital Construction. Footnote 2, pages 276-277:** Department of Human Services, Division of Child Care, Child Care Assistance Program Automated System Replacement; and Capital Construction, Department of Human Services, Division of Child Care, Capital Construction, Child Care Assistance Tracking System -- It is the intent of the General Assembly that this project: 1) have a steering committee that includes a county commissioner, a county human services director, and a user of the system; 2) that the Department pilot the program before rolling it out; 3) that the steering committee, including the county representatives, should decide whether the system is "go" or "no go" at the roll out stages; and 4) that ongoing costs for maintenance and administration of this system be covered through savings in or reductions to the Colorado Child Care Assistance Program and remaining Child Care Development Fund reserves. The new system will not drive additional costs to the state General Fund.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

- 3. Capital Construction. Footnote 3, page 277:** Capital Construction, Department of Natural Resources, Division of Wildlife -- It is the intent of the General assembly that the Division better inform members of the General Assembly regarding the purchase of property and easements. As soon as the Division starts to consider a property acquisition or easement in a given county, the Division is directed to contact all members of the General Assembly who represent any portion of the county where the proposed acquisition or easement is to occur. Such notification shall include the specific location of the property or easement to be acquired, the mechanism for funding the proposal and the justification for seeking the acquisition of easement.

I am vetoing this footnote for two reasons. First, this footnote violates the separation of powers in Article III of the Colorado Constitution by attempting to administer the appropriation. Second, this footnote violates article V, section 32 of the Colorado Constitution because it constitutes substantive legislation that cannot be included in the general appropriations bill. Notwithstanding this veto, I will direct the department to comply with this footnote to the extent feasible.

For these reasons, I have exercised my power to veto certain portions of Senate Bill 07-239.

Sincerely,

Bill Ritter, Jr.
Governor