An Act

HOUSE BILL 04-1422

BY REPRESENTATIVE(S) Young, Witwer, Plant, and Miller;
also SENATOR(S) Owen, Teck, Reeves, Arnold, and Entz.

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, 2004, EXCEPT AS OTHERWISE NOTED.

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

SECTION 1. Definitions - general provisions. As used in this act, the following definitions and general provisions shall apply:

~~(1) (a) "Capital outlay" means:~~ WBO 4/23/04 at 11:35A

~~(I) Equipment, furniture, motor vehicles, software, and other items that have a useful life of one year or more and that cost less than fifty thousand dollars;~~ WBO 4/23/04 at 11:35A.

~~(II) Alterations and replacements, meaning major and extensive repair, remodeling, or alteration of buildings, the replacement thereof, or~~

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

~~the replacement and renewal of the plumbing, wiring, electrical, fiber optic, heating, and air conditioning systems therein, costing less than fifteen thousand dollars;~~ WEG BO 4/27/04 at 11:36 AM

~~(III) New structures, meaning the construction of entirely new buildings where the cost will be less than fifteen thousand dollars, including the value of materials and labor, either state-supplied or supplied by contract;~~ BO 4/23/04 at 11:36 A.

~~(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, where the cost will be less than five thousand dollars.~~ BO 4/26/04 at 11:37 A.

~~(b) "Capital outlay" does not include those things defined as capital construction by section 24-75-301, Colorado Revised Statutes.~~ BO 4/26/04 at 11:37 A.

(2) "Centralized appropriation" means the appropriation of funds to a department's executive director's office or central administrative program intended for subsequent allocation and expenditure at and among a department's divisions, programs, agencies, or long bill groups in order to reflect the amount of such resources actually used in each program or division. Such centralized appropriations may include salary survey, performance-based pay or anniversary increases, senior executive service, shift differential, group health and life insurance, capital outlay, ADP capital outlay, information technology asset maintenance, legal services, purchase of services from computer center, vehicle lease payments, leased space, lease purchase, payment to risk management and property funds, short-term disability insurance, utilities, administrative law judge services, and centralized ADP. As provided in subsection (10) of this section, capital outlay is included within the appropriation for "operating expenses". Capital outlay may be reallocated to divisions or programs within the department solely for capital outlay expenditure.

~~(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:~~ BO 4/26/04 at 11:37 A.

~~(A) Include in such time computation any sick, annual,~~

~~administrative, or other paid leave; and~~ BO 4/26/04 at 11:38 A.

~~(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.~~ BO 4/26/04 at 11:38 A.

~~(II) "Full time equivalent" or "FTE" does not include contractual, temporary, or permanent seasonal positions.~~ BO 4/26/04 at 11:39 A

~~(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.~~ BO 4/26/04 at 11:39 A

~~(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.~~ BO 4/26/04 at 11:40 A.

~~(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.~~ BO 4/26/04 at 11:40 A.

~~(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 24-50-609 (2) (b) (II), Colorado Revised Statutes, the state of Colorado shall contribute an amount necessary to pay one hundred seventy-three dollars and ninety-two cents per month per single employee, two hundred fifty dollars and thirty-nine cents per month per employee with one covered dependent, and three hundred forty-four dollars and thirty-three cents per employee with two or more covered dependents 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 until December 31, 2004. In accordance with section 24-50-104 (4) (d) (II) and section 24-50-609 (2) (b), Colorado Revised Statutes, commencing on January 1, 2005 the state of Colorado shall contribute an amount necessary to pay one hundred ninety-nine dollars per month per single employee, three hundred twenty-four dollars and forty-four cents per month per employee with one covered dependent, and four hundred forty dollars and~~

~~ninety-seven cents per employee with two or more covered dependents for each employee enrolled in a group benefit plan that includes enrollment in medical benefits. Funds appropriated for health, life, and dental shall not be expended for any other purpose.~~ BO 4/26/04 at 11:40 A.

(5) "Indirect cost recoveries" means reimbursements made to an agency of the state from federal funds, other nonstate funds, cash funds, or cash funds exempt for the indirect expenses which have been incurred by the state in operating such programs. These recoveries are made by the departments using the approved indirect cost rate, as required by the state fiscal rules.

~~(6) "Lease purchase" means the use and acquisition of equipment under an agreement to purchase, pursuant to which payments are made for a period of longer than one year and are subject to annual appropriation. "Lease purchase" may also include payments made under the agreement for the maintenance of the equipment. No funds shall be expended for lease-purchases except those specifically appropriated for such purpose. The provisions of this subsection (6) shall not apply to the board of regents of the university of Colorado; the state board of agriculture; the board of trustees of the Colorado school of mines; the board of trustees of the university of northern Colorado; the trustees of the state colleges in Colorado; the state board for community colleges and occupational education (except for administration and the division of occupational education); the board for the Auraria higher education center; the state historical society; the Colorado council on the arts; the division of wildlife; the water conservation board; the county departments of social services; and the low-income energy assistance block grant.~~ BO 4/26/04 at 11:41 A.

~~(7) "Leased space" means the use and acquisition of office facilities and office and parking space pursuant to a rental agreement. No funds shall be expended for leased space except pursuant to a specific appropriation for such purpose. The provisions of this subsection (7) shall not apply to the board of regents of the university of Colorado; the state board of agriculture; the board of trustees of the Colorado school of mines; the board of trustees of the university of northern Colorado; the trustees of the state colleges in Colorado; the state board for community colleges and occupational education (except for administration and the division of occupational education); the board for the Auraria higher education center; the state historical society; the Colorado council on the arts; the division of wildlife; the water conservation board; the county departments of social~~

services; and the low-income energy assistance block grant.

BO 4/26/04 at 11:41 A

(8) "Legal services" means the purchase of legal services from the department of law; however, up to ten percent of the amount appropriated for legal services may instead be expended for operating expenses, contractual services, and tuition for employee training. No funds shall be expended for legal services except those specifically appropriated for such purpose. The provision of this subsection (8) shall not apply to the departments of education, higher education, transportation, and the risk management fund in the department of personnel. BO 4/26/04 at 11:41 A

(9) "Motor vehicle" means a motor truck designated three-quarters of one ton or less, automobile, or other self-propelled vehicle costing less than fifty thousand dollars.

(10) "Operating expenses" means: BO 4/26/04 at 11:41 A.

(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; BO 4/26/04 at 11:41 A.

(b) Current charges, meaning charges for items or services not otherwise defined in this section for which a separate appropriation is not made, 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, and payments of prizes, awards, and judgments other than to state employees as compensation; except that no funds appropriated for operating expenses may be expended for vehicle lease payments, leased space, or lease purchase unless otherwise authorized by law;

BO 4/26/04 at 11:42 A.

(c) Capital outlay, as defined in subsection (1) of this section.

BO 4/26/04 at 11:42 A.

(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. BO 4/26/04 at 11:43 A

~~(11) "Personal services" means:~~ BO 4/26/04 at 11:43 A.

~~(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.~~ BO 4/26/04 at 11:43 A.

~~(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. Payments for professional services shall be in compliance with section 24-30-202 (2) and (3), Colorado Revised Statutes.~~ BO 4/26/04 at 11:43 A.

~~(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.~~
BO 4/26/04 at 11:43 A.

~~(d) Tuition, meaning payments for graduate or undergraduate courses taken by state employees at institutions of higher education.~~
BO 4/26/04 at 11:44 A.

~~(e) Payments for unemployment insurance as required by the department of labor and employment.~~
BO 4/26/04 at 11:44 A.

~~(12) "Purchase of services from computer center" means the purchase of automated data processing services from the general government computer center.~~
BO 4/26/04 at 11:44 A.

~~(13) "Short-term disability" means the state contribution for employee short-term disability pursuant to section 24-50-603, Colorado Revised Statutes. No funds appropriated for short-term disability shall be expended for any other purpose.~~
BO 4/26/04 at 11:44 A.

~~(14) "Utilities" means water, sewer service, electricity, payments to energy service companies, purchase of energy conservation equipment, and~~

~~all heating fuels.~~ BO 4/26/04 at 11:45A

~~(15) "Vehicle lease payments" means the annual payments to the department of personnel for the cost of administration, repayment of a loan from the state treasury, and lease purchase payments for new and replacement vehicles. No funds shall be expended for vehicle lease payments except those specifically appropriated for such purposes. The provisions of this subsection (15) shall not apply to the departments of education, higher education, and transportation.~~

BO 4/26/04 at 11:43A.

~~(16) "Multiuse Network Payments" means payments to the Department of Personnel and Administration for the cost of administration and the use of the state's telecommunications network. No funds appropriated for multiuse network payments shall be expended for any other purpose.~~ BO 4/26/04 at 11:43A.

(17) " Pueblo Data Entry Center Payments" means payments to the Department of Personnel and Administration for the cost of data entry services from the data entry center.

(18) "Communications Services Payments" means payments to the Department of Personnel and Administration for the cost of services from the state's public safety communications infrastructure.

~~(19) Where no purpose is specified or where a special program is specified, the appropriation shall be for contractual services, tuition, and operating expenses and, only if the appropriation includes a specified FTE limitation, for personal services other than contractual services.~~

BO 4/26/04 at 11:43A.

(20) Expenditures of funds appropriated for the purchase of goods and services shall be in accord with section 17-24-111, Colorado Revised Statutes, which requires institutions, agencies, and departments to purchase such goods and services as are produced by the division of correctional industries from said division.

~~(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.~~ BO 4/26/04 at 11:44 A.

(22) (a) For purposes of complying with the provisions of subsection (5) of section 20 of article X in the state constitution, and in accordance with the provisions of this subsection (22), the balance of funds in the funds specified in paragraph (b) of this subsection (22), or such portions thereof as is necessary to be in compliance with said constitutional provision, are hereby designated to constitute the state emergency reserve for the 2004-2005 fiscal year. The designation of the balance of funds in said funds shall be in the same order of priority as said funds are set forth in paragraph (b) of this subsection (22) and shall be made in the manner such that all of the balance of funds in one fund, to the extent permitted in accordance with paragraph (b) of this subsection (22), shall constitute all or a portion of said state emergency reserve before any balance of funds in any other fund lower in the order of priority of said funds set forth in paragraph (b) of this subsection (22) shall constitute all or part of said state emergency reserve. To the extent that the balance of funds, or any portion thereof, in one or more of the funds set forth in paragraph (b) of this subsection (22) are not necessary to be in compliance with said constitutional provision, said balance of funds, or portion thereof, shall not be designated to constitute any portion of said emergency reserve.

(b) The funds designated to constitute the state emergency reserve for the 2004-2005 fiscal year are:

(I) The major medical insurance fund, created in section 8-46-202 (1) (a), Colorado Revised Statutes, up to a maximum of $24,000,000;

(II) The subsequent injury fund, created in section 8-46-101 (1) (b) (I), Colorado Revised Statutes, up to a maximum of $20,000,000;

(III) The workers' compensation cash fund, created in section 8-44-112 (7) (a), Colorado Revised Statutes, up to a maximum of $12,000,000;

(IV) The operational account of the severance tax trust fund, created in section 39-29-109 (1) (a) (II), Colorado Revised Statutes, up to a maximum of $6,000,000;

(V) The Colorado river recovery program loan fund, created in section 37-60-122.9 (1), Colorado Revised Statutes, up to a maximum of $6,000,000;

(VI) The fish and wildlife resources fund, created in section 37-60-121 (6), Colorado Revised Statutes, up to a maximum of $3,000,000;

(VII) The wildlife cash fund and fund equity, created in section 33-1-112 (1), Colorado Revised Statutes, up to a maximum of $98,695,000;

(VIII) Up to $89,005,000 of state properties as designated by the Governor.

SECTION 2. Appropriation. (1) The sums in this section hereinafter specified, or so much thereof as may be necessary for the purpose, are hereby appropriated out of any moneys in the general fund, the indicated cash funds, and federal funds, for the payment of the ordinary operating costs of the executive, legislative, and judicial departments of the state, and of its agencies and institutions, for and during the fiscal year beginning July 1, 2004, and:

(a) The figures in the column headed "item & subtotal" are the amounts made available by appropriation for expenditure within each line item, except for the figure beneath the line, which is the subtotal of the figures preceding. The figures in the "total" column are the amounts made available by appropriation for expenditure by the department, division, institution, or program to which the totals relate.

(b) The figures in the "general fund", "general fund exempt", "cash funds", "cash funds exempt", and "federal funds" columns indicate the source of funds for the amounts authorized in the expenditure columns. The figures in the "general fund exempt" and "cash funds exempt" columns are amounts not included in the term "fiscal year spending" as such term is defined in section 20 (2) (e) of article X of the state constitution.

(c) The figures in the "general fund" and "general fund exempt" columns indicate the maximum amount that may be expended from the

general fund for the purposes shown.

(d) Where the letter "(M)" appears directly to the right of the general fund or general fund exempt figure, that general fund or general fund exempt appropriation, when combined with the related general fund or general fund exempt transfers from the centralized appropriations to the office of the executive director, is used to support a federally supported program and is the maximum amount of general fund or general fund exempt moneys that may be expended in that program, except where otherwise provided. In the event that additional federal funds are available for the program, the combined general fund or general fund exempt amount noted as "(M)" shall be reduced by the amount of federal funds earned or received in excess of the figure shown in the "federal funds" column for that program. In the event that the federal funds earned or received are less than the amount shown in the "federal funds" column, the combined general fund or general fund exempt amount noted as "(M)" shall be reduced proportionately. Where general fund or general fund exempt support is required as a condition for the acceptance of federal funds and the state matching requirements are reduced, the combined general fund or general fund exempt amount noted as "(M)" shall be reduced proportionately. These provisions shall apply only to the general fund or general fund exempt amount which remains unexpended at the time of the change in federal requirements or funding. It is intended that the general fund or general fund exempt amount and the federal funds amount shall be expended in equally proportioned amounts throughout the year.

(e) (I) The figures in the "cash funds" or "cash funds exempt" columns, including the figures in any related lettered notes, indicate all non-general fund and non-general fund exempt sources and all nondirect federal fund sources and may be cash funds established by statute, nonstatutory cash accounts, tuitions, overhead reimbursements, certain fees, governmental and nongovernmental "third-party" payments, payments for services, and interagency transfers. Such figures indicate the maximum amount that may be expended from cash funds or the specified cash fund sources for the purposes shown. The amount of each cash funds or cash funds exempt appropriation is expressly declared to be nonseverable from the agency, source, and purpose of such appropriation, and such amount shall not be used for any other agency, source, or purpose.

(II) The provisions of this paragraph (e) shall not apply where this act specifically provides otherwise or where a cash funds or cash funds

exempt amount is marked with an "(L)". The "(L)" designation refers to the funds of local governments or to the funds of service organizations from which the state purchases services, the amounts of which are not appropriated in this act and the inclusion of which is informational only.

(III) Whenever a state agency receives cash funds or exempt cash funds from a centralized appropriation made to the office of the executive director of such agency's department and this act does not set forth such funds as a duplicate appropriation to said receiving agency, the provisions of this paragraph (e) shall not apply to the receipt of such funds.

(IV) Whenever the controller creates an account solely for the purpose of establishing the obligation of a state agency to generate cash funds or exempt cash funds for distribution to another state agency to which such funds are appropriated by this act, the provisions of this paragraph (e) shall not apply to the account created or to such distribution.

(f) Where the letter "(H)" appears directly to the right of a cash funds or cash funds exempt figure, that appropriation, when combined with the related cash funds or cash funds exempt transfers from the centralized appropriations to the office of the executive director, is used to support a federally supported program and is the maximum amount of cash funds or cash funds exempt moneys that may be expended in that program, except where otherwise provided. In the event that additional federal funds are available for the program, the combined cash funds or cash funds exempt amount noted as "(H)" shall be reduced by the amount of federal funds earned or received in excess of the figure shown in the "federal funds" column for that program. In the event that the federal funds earned or received are less than the amount shown in the "federal funds" column, the combined cash funds or cash funds exempt amount noted as "(H)" shall be reduced proportionately. Where cash funds or cash funds exempt support is required as a condition for the acceptance of federal funds and the state matching requirements are reduced, the combined cash funds or cash funds exempt amount noted as "(H)" shall be reduced proportionately. These provisions shall apply only to the cash funds or cash funds exempt amount which remains unexpended at the time of the change in federal requirements or funding. It is intended that the cash funds or cash funds exempt amount and the federal funds amount shall be expended in equally proportioned amounts throughout the year.

(g) Where a "(T)" appears directly to the right of a cash funds or

cash funds exempt figure, that figure is a transfer of funds or purchase of services anticipated to be made from one state agency to another and may be a combination of various funding sources. A "(T)" notation indicates the appropriation is a duplicated appropriation, appearing both in the distributing agency's appropriation where the funding details are indicated and in the receiving agency's appropriation where the amount transferred is categorized as a cash funds or cash funds exempt receipt. The "(T)" notation shall only appear on the appropriation of the receiving agency.

(h) (I) The figures in the "federal funds" column earned or received under the following federal programs which are subject to a state match or which are subject to transfer to other block grants shall be limits on the amount of expenditures of such funds, and such funds shall be expended in accordance with applicable state and federal statutes, including all provisions of this act:

Title XX Social Services Block Grant

Preventive Health Services Block Grant

Maternal and Child Health Block Grant

(II) The figures in the "federal funds" column earned or received under the following federal programs shall be limits on the amount of expenditures of such funds, and such funds shall be expended in accordance with applicable state and federal statutes, including all provisions of this act:

Child Care Development Funds

Temporary Assistance to Needy Families Block Grant

Welfare-to-Work Block Grant

(III) The figures in the "federal funds" column for all other programs are anticipated federal funds, and, although these funds are not appropriated in this act, they are noted for the purpose of indicating the assumption used relative to those funds in developing the basic appropriations amounts.

(i) The general assembly accepts no obligation directly or indirectly for support or continuation of non-state-funded programs or grants where

no direct or indirect state contribution is required. Furthermore, the general assembly accepts no obligation for costs incurred by or claimed against nonappropriated federally funded programs.

(j) No moneys appropriated by this act shall knowingly be paid to any organization, business firm, person, agency, or club which places restrictions on employment or membership based on sex, race, age, marital status, creed, color, religion, national origin, ancestry, or physical handicap.

(k) Pursuant to section 24-30-202 (2), Colorado Revised Statutes, the controller shall examine all state contracts entered into during the fiscal year commencing July 1, 2004, to determine whether such contracts are authorized by an appropriation within this act, and, pursuant to section 24-30-202 (3), Colorado Revised Statutes, no agency shall incur obligations by contract in excess of the amounts appropriated by this act.