



GOVERNOR OF MISSOURI

JEFFERSON CITY

65102

JEREMIAH W. (JAY) NIXON
GOVERNOR

P.O. Box 720
(573) 751-3222

April 13, 2010

TO THE CHIEF CLERK OF THE
HOUSE OF REPRESENTATIVES
95TH GENERAL ASSEMBLY
SECOND REGULAR SESSION
STATE OF MISSOURI

Herewith I return to you Senate Committee Substitute for House Committee Substitute for House Bill No. 2014 entitled:

AN ACT

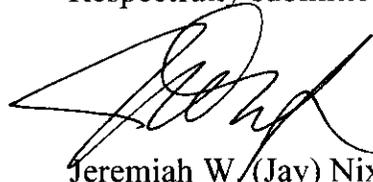
To appropriate money for supplemental purposes for the several departments and offices of state government, and for the purchase of equipment, and for the payment of various claims for refunds, for persons, firms, and corporations, and for other purposes, and to transfer money among certain funds, from the funds designated for the fiscal period ending June 30, 2010.

On April 13, 2010, I approved said Senate Committee Substitute for House Committee Substitute for House Bill No. 2014. In approving this bill, I note that Article IX, Section 3(a) of the Missouri Constitution requires that “[a]ll appropriations by the state for the support of free public schools and the income from the public school fund shall be paid at least annually and distributed according to law.” (emphasis added). In February, the Department of Elementary and Secondary Education informed public school administrators that available education funding would be distributed proportionally among all public schools pursuant to the foundation formula. This notice from the department reflected appropriate application of Chapter 163, RSMo, and allowed school districts to anticipate the amount of additional funding they could expect to receive this year.

Section 14.005 of Senate Committee Substitute for House Committee Substitute for House Bill No. 2014 states, in pertinent part, “...provided that, notwithstanding the provisions of Section 163.031, RSMo, to the contrary, the Department of Elementary and Secondary Education shall modify the foundation formula phase-in percentages pursuant to Section 163.031.4(4) to accommodate the total amount of available appropriations in fiscal year 2010...” (emphasis added). The aforementioned language attempts to amend existing law by requiring the department to ignore certain provisions of Section 163.031, RSMo, - to the financial detriment of many public school districts - in violation of Article III, Section 23 of the Missouri Constitution which prohibits legislating through an appropriations bill.

The language in Section 14.005, purporting to deviate from current law, is legal surplusage and beyond the constitutional authority of the General Assembly. Therefore, consistent with the requirements of Article IX, Section 3(a), and in recognition of the limitations imposed by Article III, Section 23, the Department of Elementary and Secondary Education shall distribute the funds appropriated under Section 14.005 of Senate Committee Substitute for House Committee Substitute for House Bill No. 2014 consistent with existing law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeremiah W. Nixon", is written over a horizontal line.

Jeremiah W. (Jay) Nixon
Governor