

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 16-1183.01 Esther van Mourik x4215

SENATE BILL 16-204

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SENATE SPONSORSHIP

Lambert, Grantham, Steadman

HOUSE SPONSORSHIP

Rankin, Hamner, Young

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Senate Committees  
Appropriations

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE HIGHER EDUCATION REVENUE BOND INTERCEPT  
102 PROGRAM.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)*

**Joint Budget Committee.** The higher education revenue bond intercept program allows the state to be available as a backup for the necessary payments of principal and interest on revenue bonds issued by a governing board of a state-supported institution of higher education (institution). The institution is able to bond for a project or projects using the state's credit rating, which generally saves the institution money. In

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

order to participate in the program, the institution must meet certain requirements regarding its credit rating and its debt service coverage ratio.

The bill:

- ! Requires a governing board of an institution to obtain a preapproval certificate from the state treasurer and seek approval from the capital development committee and the joint budget committee to use the higher education revenue bond intercept program prior to issuing bonds under the program;
- ! Requires the state treasurer to issue annual preapproval certificates to the governing boards of institutions that indicate that the governing board of an institution meets the program requirements related to credit rating and debt service coverage ratio, describes the basis for the amount to be preapproved, and specifies that the preapproval certificate may be amended based on additional data;
- ! Specifies that the intercept program can only be used if the maximum total annual debt service payment of the revenue bond issue plus the debt service payment for any other revenue bond issues that were issued by the same governing board of an institution equals 75% or less of the most recent general fund appropriation for stipends and fee-for-service contracts that is reappropriated to such governing board;
- ! Establishes and clarifies exceptions to allow for expedited approval by the state treasurer to refinance some intercept debt;
- ! Requires the state treasurer to provide the capital development committee, the joint budget committee, the Colorado commission on higher education, and the office of state planning and budgeting with an annual report that includes:
  - ! The credit rating of each governing board of an institution that has issued revenue bonds under the intercept program;
  - ! The debt service coverage ratio of each governing board of an institution that has issued revenue bonds under the intercept program;
  - ! The total amount of all revenue bonds issued by governing boards of institutions under the intercept program, including the anticipated payment schedule for such revenue bonds; and
  - ! The total amount of all revenue bonds issued by governing boards of institutions, including the

anticipated payment schedule for all such revenue bonds;

- ! Amends statutes related to how the state treasurer recovers any amounts paid to a paying agent;
- ! Expands the reporting requirements related to the program; and
- ! Makes conforming amendments to the capital construction planning statutes for state-supported institutions of higher education.

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

2 **SECTION 1.** In Colorado Revised Statutes, 23-5-139, **amend** (1)  
3 (b), (1) (c), (3), and (5); and **add** (1) (d) and (1.5) as follows:

4 **23-5-139. Higher education revenue bond intercept program.**

5 (1) (b) This section applies to revenue bonds issued by ~~an~~ THE  
6 GOVERNING BOARD OF AN institution pursuant to this article on or after  
7 ~~April 26, 2013~~ THE EFFECTIVE DATE OF THIS PARAGRAPH (b), AS  
8 AMENDED, and to refunding bonds issued by THE GOVERNING BOARD OF  
9 an institution pursuant to article 54, 56, or 57 of title 11, C.R.S., on or  
10 after ~~April 26, 2013, if, on the date the bonds are issued~~ THE EFFECTIVE  
11 DATE OF THIS PARAGRAPH (b), AS AMENDED, IF:

12 (I) THE MAXIMUM TOTAL ANNUAL DEBT SERVICE PAYMENT OF THE  
13 REVENUE BOND ISSUE PLUS THE DEBT SERVICE PAYMENT FOR ALL OTHER  
14 REVENUE BOND ISSUES TO WHICH THIS SECTION APPLIES THAT WERE  
15 ISSUED ON OR AFTER JUNE 4, 2008, BY THE SAME GOVERNING BOARD OF  
16 AN INSTITUTION, EQUALS SEVENTY-FIVE PERCENT OR LESS OF THE MOST  
17 RECENT FISCAL YEAR GENERAL FUND APPROPRIATION FOR STIPENDS AND  
18 FEE-FOR-SERVICE CONTRACTS THAT IS REAPPROPRIATED TO SUCH  
19 GOVERNING BOARD; AND

20 ~~(I)~~ (II) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS

1 SUBSECTION (1), the governing body BOARD of the institution has:

2 (A) A credit rating in one of the three highest categories, without  
3 regard to modifiers within a category, from at least one nationally  
4 recognized statistical rating organization and, if more than one such  
5 organization has rated an institution, no credit rating that is in a category  
6 below the three highest categories, without regard to modifiers within a  
7 category; and

8 (B) A debt service coverage ratio of at least one and one-half to  
9 one, measured by dividing the institution's GOVERNING BOARD OF THE  
10 INSTITUTION'S net revenue available for annual debt service over the SUCH  
11 GOVERNING BOARD'S total amount of annual debt service ~~subject to this~~  
12 ~~article and~~ PLUS the annual debt service to be issued ~~pursuant to this~~  
13 ~~article~~ BY SUCH GOVERNING BOARD; and

14 ~~(H)~~ (III) The pledged revenues for the issue include not less than:

15 (A) The net revenues of auxiliaries;

16 (B) Ten percent of tuition if the institution is an enterprise, as  
17 defined in section 24-77-102 (3), C.R.S.;

18 (C) Indirect cost recovery revenues, if any;

19 (D) Facility construction fees designated for bond repayment, if  
20 any; and

21 (E) Student fees and ancillary revenues currently pledged to  
22 existing bondholders; AND

23 (IV) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION  
24 (1), THE GOVERNING BOARD OF THE INSTITUTION HAS OBTAINED A  
25 PREAPPROVAL CERTIFICATE FROM THE STATE TREASURER AS DESCRIBED  
26 IN SUBPARAGRAPH (II) OF PARAGRAPH (d) OF THIS SUBSECTION (1), AND  
27 OBTAINED APPROVAL FROM BOTH THE CAPITAL DEVELOPMENT COMMITTEE

1 AND THE JOINT BUDGET COMMITTEE AS SPECIFIED IN SUBSECTION (1.5) OF  
2 THIS SECTION.

3 (c) (I) ~~The state treasurer may exempt an institution from the~~  
4 ~~requirements of subparagraph (I)~~ IF THE STATE TREASURER DETERMINES  
5 THAT A GOVERNING BOARD OF AN INSTITUTION DOES NOT MEET THE  
6 REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) of paragraph (b) of this  
7 subsection (1), if the STATE TREASURER CONFIRMS THAT THE revenue  
8 bonds to be issued are refunding bonds that result in cost savings to the  
9 GOVERNING BOARD OF THE institution BASED ON A CASH FLOW ANALYSIS  
10 BY THE STATE TREASURER, THE REFUNDING BONDS WILL REFUND REVENUE  
11 BONDS THAT WERE ORIGINALLY ISSUED UNDER THE INTERCEPT PROGRAM,  
12 AND THE REFUNDING BONDS WILL NOT EXTEND THE NUMBER OF YEARS OF  
13 REPAYMENT, THEN THE REQUIREMENTS SET FORTH IN SUBPARAGRAPHS (II)  
14 AND (IV) OF PARAGRAPH (b) OF THIS SUBSECTION (1) SHALL NOT APPLY.  
15 NO LATER THAN FIFTEEN DAYS AFTER RECEIVING A REQUEST IN WRITING  
16 FROM A GOVERNING BOARD OF AN INSTITUTION TO USE THE INTERCEPT  
17 PROGRAM, THE STATE TREASURER SHALL SEND A CERTIFICATION THAT A  
18 GOVERNING BOARD OF AN INSTITUTION HAS MET THE REQUIREMENTS OF  
19 THIS SUBPARAGRAPH (I) TO THE CAPITAL DEVELOPMENT COMMITTEE, THE  
20 JOINT BUDGET COMMITTEE, THE COLORADO COMMISSION ON HIGHER  
21 EDUCATION, AND THE OFFICE OF STATE PLANNING AND BUDGETING.

22 (II) IF THE STATE TREASURER DETERMINES THAT A GOVERNING  
23 BOARD OF AN INSTITUTION MEETS THE REQUIREMENTS SET FORTH IN  
24 SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1), THE  
25 STATE TREASURER CONFIRMS THAT THE REVENUE BONDS TO BE ISSUED  
26 ARE REFUNDING BONDS THAT RESULT IN COST SAVINGS TO THE GOVERNING  
27 BOARD OF THE INSTITUTION BASED ON A CASH FLOW ANALYSIS BY THE

1 STATE TREASURER, THE REFUNDING BONDS WILL REFUND REVENUE BONDS  
2 THAT WERE ORIGINALLY ISSUED UNDER THE INTERCEPT PROGRAM, AND  
3 THE REFUNDING BONDS WILL NOT EXTEND THE NUMBER OF YEARS OF  
4 REPAYMENT, THEN THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (IV)  
5 OF PARAGRAPH (b) OF THIS SUBSECTION (1) SHALL NOT APPLY. NO LATER  
6 THAN FIFTEEN DAYS AFTER RECEIVING A REQUEST IN WRITING FROM A  
7 GOVERNING BOARD OF AN INSTITUTION TO USE THE INTERCEPT PROGRAM,  
8 THE STATE TREASURER SHALL SEND A CERTIFICATION THAT A GOVERNING  
9 BOARD OF AN INSTITUTION HAS MET THE REQUIREMENTS OF THIS  
10 SUBPARAGRAPH (II) TO THE CAPITAL DEVELOPMENT COMMITTEE, THE  
11 JOINT BUDGET COMMITTEE, THE COLORADO COMMISSION ON HIGHER  
12 EDUCATION, AND THE OFFICE OF STATE PLANNING AND BUDGETING.

13 (d) (I) NO LATER THAN SEPTEMBER 1, 2016, AND EACH SEPTEMBER  
14 1 THEREAFTER, THE STATE TREASURER SHALL PROVIDE THE CAPITAL  
15 DEVELOPMENT COMMITTEE, THE JOINT BUDGET COMMITTEE, THE  
16 COLORADO COMMISSION ON HIGHER EDUCATION, AND THE OFFICE OF  
17 STATE PLANNING AND BUDGETING WITH A REPORT THAT INCLUDES:

18 (A) THE CREDIT RATING DESCRIBED IN SUB-SUBPARAGRAPH (A) OF  
19 SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1) OF EACH  
20 GOVERNING BOARD OF AN INSTITUTION THAT HAS ISSUED REVENUE BONDS  
21 UNDER THE INTERCEPT PROGRAM DESCRIBED IN THIS SECTION;

22 (B) THE DEBT SERVICE COVERAGE RATIO DESCRIBED IN  
23 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (b) OF  
24 THIS SUBSECTION (1) OF EACH GOVERNING BOARD OF AN INSTITUTION  
25 THAT HAS ISSUED REVENUE BONDS UNDER THE INTERCEPT PROGRAM  
26 DESCRIBED IN THIS SECTION;

27 (C) THE TOTAL AMOUNT OF ALL REVENUE BONDS ISSUED BY

1 GOVERNING BOARDS OF INSTITUTIONS UNDER THE INTERCEPT PROGRAM  
2 DESCRIBED IN THIS SECTION, INCLUDING THE ANTICIPATED PAYMENT  
3 SCHEDULE FOR SUCH REVENUE BONDS; AND

4 (D) THE TOTAL AMOUNT OF ALL REVENUE BONDS ISSUED BY  
5 GOVERNING BOARDS OF INSTITUTIONS UNDER SECTION 23-5-101.7 (2),  
6 INCLUDING THE ANTICIPATED PAYMENT SCHEDULE FOR ALL SUCH  
7 REVENUE BONDS.

8 (II) THE REPORT DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
9 PARAGRAPH (d) IS THE BASIS FOR THE ANNUAL PREAPPROVAL CERTIFICATE  
10 THAT THE STATE TREASURER SHALL ISSUE TO EACH GOVERNING BOARD OF  
11 AN INSTITUTION THAT MEETS THE REQUIREMENTS SET FORTH IN  
12 SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1). THE  
13 PREAPPROVAL CERTIFICATE MUST INCLUDE THE TOTAL AMOUNT OF  
14 REVENUE BONDS THAT THE GOVERNING BOARD OF AN INSTITUTION MAY  
15 ISSUE UNDER THE INTERCEPT PROGRAM DESCRIBED IN THIS SECTION FOR  
16 THE PERIOD THAT THE PREAPPROVAL CERTIFICATE COVERS. THE TOTAL  
17 AMOUNT OF REVENUE BONDS THAT A GOVERNING BOARD OF AN  
18 INSTITUTION MAY ISSUE MUST BE CALCULATED BASED ON THE LESSER OF  
19 THE FOLLOWING, AS OF THE DATE OF ISSUANCE OF THE PREAPPROVAL  
20 CERTIFICATE:

21 (A) THE DIFFERENCE BETWEEN SEVENTY-FIVE PERCENT OF THE  
22 MOST RECENT FISCAL YEAR'S GENERAL FUND APPROPRIATIONS FOR  
23 STIPENDS AND FEE-FOR-SERVICE CONTRACTS THAT ARE REAPPROPRIATED  
24 TO SUCH GOVERNING BOARD AND THE TOTAL ANNUAL DEBT SERVICE  
25 PAYMENTS OF SUCH GOVERNING BOARD; OR

26 (B) THE TOTAL AMOUNT OF ADDITIONAL DEBT A GOVERNING  
27 BOARD COULD ISSUE WHILE MAINTAINING THE REQUIREMENTS SET FORTH

1 IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1).  
2 (III) THE PREAPPROVAL CERTIFICATE DESCRIBED IN  
3 SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) MAY BE AMENDED IF  
4 REQUESTED BY THE CAPITAL DEVELOPMENT COMMITTEE AS SPECIFIED IN  
5 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1.5) OF THIS  
6 SECTION.  
7 (1.5) (a) (I) A GOVERNING BOARD OF AN INSTITUTION DESIRING TO  
8 ISSUE REVENUE BONDS SUBJECT TO THE INTERCEPT PROGRAM DESCRIBED  
9 IN THIS SECTION SHALL PRESENT THE STATE TREASURER'S PREAPPROVAL  
10 CERTIFICATE, DESCRIBED IN PARAGRAPH (d) OF SUBSECTION (1) OF THIS  
11 SECTION, TO THE CAPITAL DEVELOPMENT COMMITTEE AND REQUEST  
12 APPROVAL FROM THE CAPITAL DEVELOPMENT COMMITTEE. THE REQUEST  
13 MUST INCLUDE:  
14 (A) A DESCRIPTION OF THE PROJECT OR PROJECTS THAT THE  
15 GOVERNING BOARD OF THE INSTITUTION SEEKS TO FINANCE THROUGH THE  
16 ISSUANCE OF REVENUE BONDS SUBJECT TO THE INTERCEPT PROGRAM;  
17 (B) THE MAXIMUM AMOUNT OF REVENUE BONDS THE GOVERNING  
18 BOARD OF AN INSTITUTION SEEKS TO ISSUE FOR THE PROJECT OR PROJECTS;  
19 (C) THE ANTICIPATED TERMS OF THE REVENUE BONDS INCLUDING  
20 THE MAXIMUM ANTICIPATED ANNUAL DEBT SERVICE PAYMENT; AND  
21 (D) IF AVAILABLE, A COPY OF THE GOVERNING BOARD'S  
22 RESOLUTION THAT AUTHORIZES THE ISSUANCE OF REVENUE BONDS.  
23 (II) IF THERE ARE ACTUAL OR ANTICIPATED CHANGES TO THE  
24 FINANCIAL POSITION AND CREDIT RATING OF THE GOVERNING BOARD OF AN  
25 INSTITUTION THAT MAY AFFECT THE GOVERNING BOARD'S COMPLIANCE  
26 WITH PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION SINCE THE  
27 PREAPPROVAL CERTIFICATE WAS ISSUED BY THE STATE TREASURER, THE



1 GOVERNING BOARD OF AN INSTITUTION SHALL PROVIDE THE CAPITAL  
2 DEVELOPMENT COMMITTEE WITH DOCUMENTATION REGARDING SUCH  
3 CHANGES. THE CAPITAL DEVELOPMENT COMMITTEE MAY REQUEST THE  
4 STATE TREASURER TO PREPARE AN AMENDED PREAPPROVAL CERTIFICATE  
5 ON THE BASIS OF THIS ADDITIONAL DOCUMENTATION.

6 (b) NO LATER THAN THIRTY DAYS AFTER THE REQUEST FOR  
7 APPROVAL DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5)  
8 DURING A REGULAR LEGISLATIVE SESSION OF THE GENERAL ASSEMBLY, OR  
9 NO LATER THAN FORTY-FIVE DAYS AFTER THE REQUEST FOR APPROVAL  
10 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) DURING ANY  
11 PERIOD THAT THE GENERAL ASSEMBLY IS NOT IN REGULAR LEGISLATIVE  
12 SESSION, THE CAPITAL DEVELOPMENT COMMITTEE SHALL REVIEW THE  
13 REQUEST FOR APPROVAL AND FORWARD A LETTER TO THE JOINT BUDGET  
14 COMMITTEE SETTING FORTH ITS APPROVAL OR DISAPPROVAL FOR SUCH  
15 GOVERNING BOARD OF THE INSTITUTION TO USE THE INTERCEPT PROGRAM  
16 AND, IF APPROVED, ANY RECOMMENDATIONS THE CAPITAL DEVELOPMENT  
17 COMMITTEE MAY HAVE REGARDING THE MAXIMUM AMOUNT OF REVENUE  
18 BONDS THAT MAY BE ISSUED BY SUCH GOVERNING BOARD SUBJECT TO THE  
19 INTERCEPT PROGRAM.

20 (c) NO LATER THAN FORTY-FIVE DAYS AFTER RECEIPT OF THE  
21 LETTER FROM THE CAPITAL DEVELOPMENT COMMITTEE DURING THE  
22 PERIOD OF OCTOBER 10 TO APRIL 10 OF ANY CALENDAR YEAR, OR NO  
23 LATER THAN NINETY-FIVE DAYS AFTER RECEIPT OF THE LETTER FROM THE  
24 CAPITAL DEVELOPMENT COMMITTEE DURING THE PERIOD OF APRIL 11 TO  
25 OCTOBER 9 OF ANY CALENDAR YEAR, THE JOINT BUDGET COMMITTEE  
26 SHALL REVIEW THE PROJECT OR PROJECTS AND THE GOVERNING BOARD OF  
27 THE INSTITUTION'S REQUEST TO FINANCE THE PROJECT OR PROJECTS

1 THROUGH THE ISSUANCE OF REVENUE BONDS SUBJECT TO THE INTERCEPT  
2 PROGRAM. THE JOINT BUDGET COMMITTEE SHALL FORWARD A LETTER TO  
3 THE STATE TREASURER, THE OFFICE OF STATE PLANNING AND BUDGETING,  
4 THE COLORADO COMMISSION ON HIGHER EDUCATION, AND THE  
5 GOVERNING BOARD SETTING FORTH THE COMMITTEE'S APPROVAL OR  
6 DISAPPROVAL FOR SUCH GOVERNING BOARD TO USE THE INTERCEPT  
7 PROGRAM AND THE MAXIMUM AMOUNT OF REVENUE BONDS THAT MAY BE  
8 ISSUED BY SUCH GOVERNING BOARD SUBJECT TO THE INTERCEPT  
9 PROGRAM.

10 (d) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF SUBSECTION (1) OF  
11 THIS SECTION, NO GOVERNING BOARD MAY ISSUE BONDS SUBJECT TO THE  
12 INTERCEPT PROGRAM UNTIL THE JOINT BUDGET COMMITTEE ISSUES THE  
13 APPROVAL LETTER DESCRIBED IN PARAGRAPH (c) OF THIS SUBSECTION  
14 (1.5).

15 (3) If an institution indicates that it will not make a payment by  
16 the date on which it is due, or if the state treasurer is unable to contact the  
17 institution, the state treasurer shall forward the amount in immediately  
18 available funds necessary to make the payment of the principal of or  
19 interest on the bonds or other obligations of the institution to the paying  
20 agent. The state treasurer shall recover the amount forwarded by  
21 withholding amounts from the institution's payments of the state's  
22 fee-for-service contract with the institution, from any other state support  
23 for the institution, and from any unpledged tuition OR OTHER moneys  
24 collected by the institution. ~~The total amount withheld in a month from~~  
25 ~~the state's fee-for-service contract with the institution for each occasion~~  
26 ~~on which the state treasurer forwards an amount pursuant to this section~~  
27 ~~shall not exceed one-twelfth of the amount forwarded. The state treasurer~~

1 ~~shall not withhold for more than twelve consecutive months for each~~  
2 ~~occasion on which the treasurer forwards amounts pursuant to this~~  
3 ~~section. Notwithstanding any other provision of this subsection (3), an~~  
4 ~~institution may elect to make early repayment of all or any portion of an~~  
5 ~~amount forwarded by the state treasurer on behalf of the institution~~  
6 ~~pursuant to this section.~~

7 (5) (a) Any GOVERNING BOARD OF AN institution with a bond issue  
8 for which this section applies shall file with the state treasurer WITHIN  
9 THIRTY DAYS OF ITS PUBLIC RELEASE a copy of the resolution that  
10 authorizes the issuance of bonds; a copy of the official statement or other  
11 offering document for the bonds; the agreement, if any, with the paying  
12 agent for the bonds; and the name, address, and telephone number of the  
13 paying agent. A COPY OF THE OFFICIAL STATEMENT OR OTHER OFFERING  
14 DOCUMENT FOR THE BONDS MUST ALSO BE SUBMITTED WITHIN THIRTY  
15 DAYS OF ITS PUBLIC RELEASE TO THE OFFICE OF STATE PLANNING AND  
16 BUDGETING, THE COLORADO COMMISSION ON HIGHER EDUCATION, THE  
17 CAPITAL DEVELOPMENT COMMITTEE, AND THE JOINT BUDGET COMMITTEE.

18 (b) ON THE DAY A PRELIMINARY OFFICIAL STATEMENT IS PUBLICLY  
19 RELEASED FOR A BOND TO BE ISSUED UNDER THE INTERCEPT PROGRAM  
20 DESCRIBED IN THIS SECTION, THE GOVERNING BOARD OF AN INSTITUTION  
21 SHALL NOTIFY THE STATE TREASURER, THE OFFICE OF STATE PLANNING  
22 AND BUDGETING, THE COLORADO COMMISSION ON HIGHER EDUCATION,  
23 THE CAPITAL DEVELOPMENT COMMITTEE, AND THE JOINT BUDGET  
24 COMMITTEE BY PROVIDING AN ELECTRONIC LINK TO OR AN ELECTRONIC  
25 COPY OF THE PRELIMINARY OFFICIAL STATEMENT.

26 (c) The failure of any GOVERNING BOARD OF AN institution to file  
27 ~~such~~ ANY information ~~shall~~ REQUIRED IN THIS SUBSECTION DOES not affect

1 the obligation of the state treasurer to withhold the state's fee-for-service  
2 contract payments to the institution STATE TREASURER'S OBLIGATIONS SET  
3 FORTH IN THIS SECTION.

4 **SECTION 2.** In Colorado Revised Statutes, 23-1-106, **amend** (1),  
5 (3), (5) (a), (6), (7) (a), (7) (c) (I), (9), (10.2) (a) (I), and (10.5); and  
6 **repeal** (10) and (11) (a) (II) as follows:

7 **23-1-106. Duties and powers of the commission with respect**  
8 **to capital construction and long-range planning - legislative**  
9 **declaration - definitions.** (1) Except as permitted by subsections ~~(9)~~ and  
10 ~~(10)~~ SUBSECTION (9) of this section, it is declared to be the policy of the  
11 general assembly not to authorize any activity requiring capital  
12 construction or capital renewal for state institutions of higher education  
13 unless approved by the commission.

14 (3) The commission shall review and approve facility master plans  
15 for all state institutions of higher education on land owned or controlled  
16 by the state or an institution and capital construction or capital renewal  
17 program plans for projects other than those projects described in  
18 subsection (9) ~~or (10)~~ of this section. The commission shall forward the  
19 approved facility master plans to the office of the state architect. Except  
20 for those projects described in subsection (9) ~~or (10)~~ of this section, no  
21 capital construction or capital renewal shall commence except in  
22 accordance with an approved facility master plan and program plan.

23 (5) (a) The commission shall approve plans for any capital  
24 construction or capital renewal project at any state institution of higher  
25 education regardless of the source of funds; except that the commission  
26 need not approve plans for any capital construction or capital renewal  
27 project at a local district college or area vocational school or for any

1 capital construction or capital renewal project described in subsection (9)  
2 ~~or (10)~~ of this section.

3 (6) (a) The commission shall request annually from each  
4 governing board of each state institution of higher education a five-year  
5 projection of capital construction or capital renewal projects to be  
6 constructed but not including those projects described in subsection (9)  
7 ~~or (10)~~ of this section. The projection must include the estimated cost, the  
8 method of funding, a schedule for project completion, and the governing  
9 board-approved priority for each project. The commission shall determine  
10 whether a proposed project is consistent with the role and mission and  
11 master planning of the institution and conforms to standards  
12 recommended by the commission.

13 (b) The commission shall request annually from the governing  
14 board of each state institution of higher education a two-year projection  
15 of capital construction projects to be undertaken pursuant to subsection  
16 (9) ~~or (10)~~ of this section and estimated to require total project  
17 expenditures exceeding two million dollars. The projection must include  
18 the estimated cost, the method of funding, and a schedule for project  
19 completion for each project. A state institution of higher education shall  
20 amend the projection prior to commencing a project that is not included  
21 in the institution's most recent projection.

22 (7) (a) The commission annually shall prepare a unified, five-year  
23 capital improvements report of projects to be constructed, but not  
24 including those capital construction or capital renewal projects to be  
25 undertaken pursuant to subsection (9) ~~or (10)~~ of this section, coordinated  
26 with education plans. The commission shall transmit the report to the  
27 office of state planning and budgeting, the office of the state architect, the

1 capital development committee, and the joint budget committee,  
2 consistent with the executive budget timetable, together with a  
3 recommended priority of funding of capital construction or capital  
4 renewal projects for the system of public higher education. The  
5 commission shall annually transmit the recommended priority of funding  
6 of capital construction or capital renewal projects to the capital  
7 development committee no later than November 1 of each year.

8 (c) (I) The commission annually shall prepare a unified, two-year  
9 report for capital construction or capital renewal projects described in  
10 subsection (9) ~~or (10)~~ of this section and estimated to require total project  
11 expenditures exceeding two million dollars, coordinated with education  
12 plans. The commission shall transmit the report to the office of state  
13 planning and budgeting, the governor, the capital development  
14 committee, and the joint budget committee, consistent with the executive  
15 budget timetable.

16 (9) (a) Except as provided in paragraph (d) of this subsection (9),  
17 a capital construction or capital renewal project for an auxiliary facility  
18 initiated by the governing board of a state institution of higher education  
19 that is contained in the most recent two-year projection approved pursuant  
20 to subparagraph (II) of paragraph (c) of subsection (7) of this section, as  
21 the projection may be amended from time to time, and that is to be  
22 acquired or constructed and operated and maintained solely from cash  
23 funds held by the institution is not subject to additional review or  
24 approval by the commission, the office of state planning and budgeting,  
25 the capital development committee, or the joint budget committee;  
26 EXCEPT THAT, IF THE CAPITAL CONSTRUCTION OR CAPITAL RENEWAL  
27 PROJECT FOR AN AUXILIARY FACILITY IS TO BE ACQUIRED OR

1 CONSTRUCTED IN WHOLE OR IN PART USING MONEYS SUBJECT TO THE  
2 HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED  
3 PURSUANT TO SECTION 23-5-139, THEN THE GOVERNING BOARD OF A  
4 STATE INSTITUTION OF HIGHER EDUCATION MUST OBTAIN APPROVAL FROM  
5 THE GENERAL ASSEMBLY AS SPECIFIED IN THAT SECTION.

6 (b) Except as provided in paragraph (d) of this subsection (9), a  
7 capital construction or capital renewal project for an academic facility  
8 initiated by the governing board of a state institution of higher education  
9 that is contained in the most recent two-year projection approved pursuant  
10 to subparagraph (II) of paragraph (c) of subsection (7) of this section, as  
11 the projection may be amended from time to time, and that is to be  
12 acquired or constructed solely from cash funds held by the institution and  
13 operated and maintained from such funds or from state moneys  
14 appropriated for such purpose, or both, is not subject to additional review  
15 or approval by the commission, the office of state planning and  
16 budgeting, the capital development committee, or the joint budget  
17 committee; EXCEPT THAT, IF THE CAPITAL CONSTRUCTION OR CAPITAL  
18 RENEWAL PROJECT FOR AN ACADEMIC FACILITY IS TO BE ACQUIRED OR  
19 CONSTRUCTED IN WHOLE OR IN PART USING MONEYS SUBJECT TO THE  
20 HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED  
21 PURSUANT TO SECTION 23-5-139, THEN THE GOVERNING BOARD OF A  
22 STATE INSTITUTION OF HIGHER EDUCATION MUST OBTAIN APPROVAL FROM  
23 THE GENERAL ASSEMBLY AS SPECIFIED IN THAT SECTION. Any capital  
24 construction or capital renewal project subject to this paragraph (b) must  
25 comply with the high performance standard certification program  
26 established pursuant to section 24-30-1305.5, C.R.S.

27 (c) Each governing board shall ensure, consistent with its

1 responsibilities as set forth in section 5 (2) of article VIII of the state  
2 constitution, that a capital construction or capital renewal project initiated  
3 pursuant to this subsection (9) is in accordance with its institution's  
4 mission, be of a size and scope to provide for the defined program needs,  
5 and be designed in accordance with all applicable building codes and  
6 accessibility standards.

7 (d) (I) ~~The provisions of this subsection (9) do not apply to a~~  
8 ~~capital construction or capital renewal project that is to be acquired or~~  
9 ~~constructed in whole or in part using moneys subject to the higher~~  
10 ~~education revenue bond intercept program established pursuant to section~~  
11 ~~23-5-139.~~

12 (II) Any plan for any such capital construction or capital renewal  
13 project that is estimated to require total expenditures of two million  
14 dollars or less is not subject to review or approval by the commission.

15 (e) A capital construction or acquisition project approved and  
16 appropriated prior to January 1, 2010, may be contained in the most  
17 recent unified two-year capital improvements project projection approved  
18 pursuant to subparagraph (II) of paragraph (c) of subsection (7) of this  
19 section. The projection may be amended from time to time and is not  
20 subject to additional review or approval by the commission, the office of  
21 state planning and budgeting, the capital development committee, or the  
22 joint budget committee.

23 (10) (a) (I) ~~The commission shall review and approve any plan for~~  
24 ~~a capital construction or capital renewal project for an auxiliary facility~~  
25 ~~that is estimated to require total expenditures exceeding two million~~  
26 ~~dollars and that is to be acquired or constructed and operated and~~  
27 ~~maintained solely from cash funds held by the state institution of higher~~



1 education that, in whole or in part, are subject to the higher education  
2 revenue bond intercept program established pursuant to section 23-5-139.

3 ~~(H) The commission shall review and approve any plan for a  
4 capital construction or capital renewal project for an academic facility  
5 that is estimated to require total expenditures exceeding two million  
6 dollars, that is to be acquired or constructed solely from cash funds held  
7 by the state institution of higher education that, in whole or in part, are  
8 subject to the higher education revenue bond intercept program  
9 established pursuant to section 23-5-139, and that is operated and  
10 maintained from such cash funds or from state moneys appropriated for  
11 such purpose, or both. Any capital construction or capital renewal project  
12 subject to this subparagraph (H) must comply with the high performance  
13 standard certification program established pursuant to section  
14 24-30-1305.5, C.R.S.~~

15 ~~(HH) Any plan for any such capital construction or capital renewal  
16 project that is estimated to require total expenditures of two million  
17 dollars or less is not subject to review or approval by the commission.~~

18 ~~(b) Upon approval of a plan for a capital construction or capital  
19 renewal project pursuant to paragraph (a) of this subsection (10), the  
20 commission shall submit the plan to the capital development committee.  
21 The capital development committee shall make a recommendation  
22 regarding the project to the joint budget committee. Following the receipt  
23 of the recommendation, the joint budget committee shall refer its  
24 recommendations regarding the project, with written comments, to the  
25 commission.~~

26 ~~(c) A capital construction project approved and appropriated prior  
27 to January 1, 2010, may be contained in the most recent two-year~~

1 ~~projection approved pursuant to subparagraph (H) of paragraph (c) of~~  
2 ~~subsection (7) of this section, and the projection may be amended from~~  
3 ~~time to time.~~

4 (10.2) (a) (I) Notwithstanding any law to the contrary, all  
5 academic facilities acquired or constructed, or an auxiliary facility  
6 repurposed for use as an academic facility, solely from cash funds held by  
7 the state institution of higher education and operated and maintained from  
8 such cash funds or from state moneys appropriated for such purpose, or  
9 both, including, but not limited to, those facilities described in paragraph  
10 (b) of subsection (9) of this section, ~~and subparagraph (H) of paragraph~~  
11 ~~(a) of subsection (10) of this section,~~ that did not previously qualify for  
12 state controlled maintenance funding will qualify for state controlled  
13 maintenance funding, subject to funding approval by the capital  
14 development committee and the eligibility guidelines described in section  
15 24-30-1303.9, C.R.S.

16 (10.5) (a) For any project subject to subsection (9) ~~or (10)~~ of this  
17 section, if, after commencement of construction, the governing board of  
18 the state institution of higher education receives an additional gift, grant,  
19 or donation for the project, the governing board may amend the project  
20 without the approval of the commission, the office of state planning and  
21 budgeting, the capital development committee, or the joint budget  
22 committee so long as the governing board notifies the commission, the  
23 office of state planning and budgeting, the capital development  
24 committee, and the joint budget committee in writing, explaining how the  
25 project has been amended and verifying the receipt of the additional gift,  
26 grant, or donation.

27 (b) For any project subject to subsection (9) ~~or (10)~~ of this section,

1 the governing board may enhance the project in an amount not to exceed  
2 fifteen percent of the original estimate of the cost of the project without  
3 the approval of the commission, the office of state planning and  
4 budgeting, the capital development committee, or the joint budget  
5 committee so long as the governing board notifies the commission, the  
6 office of state planning and budgeting, the capital development  
7 committee, and the joint budget committee in writing, explaining how the  
8 project has been enhanced and the source of the moneys for the  
9 enhancement.

10 (c) For any project subject to subsection (9) ~~or (10)~~ of this section,  
11 the governing board of the state institution of higher education  
12 implementing the project is not required to submit for the project  
13 quarterly expenditure reports as described in section 24-30-204 (2),  
14 C.R.S. The governing board shall submit for the project annual  
15 expenditure reports as required in section 24-30-204 (1), C.R.S.

16 (11) (a) Each state institution of higher education shall submit to  
17 the commission on or before September 1 of each year a list and  
18 description of each project for which an expenditure was made during the  
19 immediately preceding fiscal year that:

20 (II) ~~Was approved pursuant to subsection (10) of this section;~~

21 **SECTION 3.** In Colorado Revised Statutes, 24-30-204, **amend**  
22 (2) (b) as follows:

23 **24-30-204. Fiscal year.** (2) (b) Notwithstanding the provisions  
24 of paragraph (a) of this subsection (2), a governing board that implements  
25 a capital construction or acquisition project as described in section  
26 23-1-106 (9), ~~or (10)~~, C.R.S., is not required to submit for the project  
27 quarterly reports as described in paragraph (a) of this subsection (2).

1           **SECTION 4.** In Colorado Revised Statutes, 24-30-1303, **amend**  
2 (5) (c) as follows:

3           **24-30-1303. Office of the state architect - responsibilities.**

4 (5) (c) If the state architect determines that the governing board of a state  
5 institution of higher education has adopted procedures that adequately  
6 meet the safeguards set forth in the requirements of part 14 of this article  
7 and article 92 of this title, the state architect may exempt the institution  
8 from any of the procedural requirements of part 14 of this article and  
9 article 92 of this title in regard to a capital construction project to be  
10 constructed pursuant to the provisions of section 23-1-106 (9), ~~or (10)~~,  
11 C.R.S.; except that the selection of any contractor to perform professional  
12 services as defined in section 24-30-1402 (6) must be made in accordance  
13 with the criteria set forth in section 24-30-1403 (2).

14           **SECTION 5.** In Colorado Revised Statutes, 24-37-304, **amend**  
15 (1) (c.3) (I) (A) as follows:

16           **24-37-304. Additional budgeting responsibilities.** (1) In  
17 addition to the responsibilities enumerated in section 24-37-302, the  
18 office of state planning and budgeting shall:

19           (c.3) (I) Ensure submission to the capital development committee  
20 of:

21           (A) Except for projects authorized pursuant to section 23-1-106  
22 (9), ~~or (10)~~, C.R.S., all cash-funded capital construction or capital  
23 renewal budget requests by each state agency for the upcoming fiscal year  
24 no later than September 15 of each year;

25           **SECTION 6. Safety clause.** The general assembly hereby finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, and safety.