

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-1183.01 Esther van Mourik x4215

SENATE BILL 16-204

SENATE SPONSORSHIP

Lambert, Grantham, Steadman

HOUSE SPONSORSHIP

Rankin, Hamner, Young

Senate Committees
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE HIGHER EDUCATION REVENUE BOND INTERCEPT**
102 **PROGRAM.**

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/billsummaries>.)

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.

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

2 **SECTION 1. In Colorado Revised Statutes, amend 23-5-139 as**
3 **follows:**

4 **23-5-139. Higher education revenue bond intercept program**
5 **- definitions. (1) (a) The state treasurer, on behalf of a state-supported**
6 **institution of higher education, as described in section 23-1-102 (2) and**
7 **referred to in this section as an "institution" AN INSTITUTION, shall make**
8 **payment as provided in this section of principal and interest on INTERCEPT**
9 **bonds to which this section applies unless the governing board of the**
10 **institution adopts a resolution stating that it will not accept on behalf of**
11 **the institution payment of principal of and interest on INTERCEPT bonds**
12 **as provided in this section. Any such resolution shall MUST be adopted**
13 **prior to issuance or incurrence of the INTERCEPT bonds to which it**
14 **applies. Following adoption of the resolution, the institution shall provide**
15 **written notice to the state treasurer of its refusal to accept the payment.**
16 **The refusal to accept payment shall take TAKES effect upon ON the date**
17 **the state treasurer receives the written notice and shall continue**
18 **CONTINUES in effect until the date the state treasurer receives written**
19 **notice from the institution that the governing board of the institution has**
20 **adopted a resolution rescinding the refusal to accept payment pursuant to**

1 this section. Notwithstanding any provision of subsections (2) to (7) of
2 this section to the contrary, the state treasurer shall not make payment of
3 principal of or interest on INTERCEPT bonds on behalf of an institution that
4 provides written notice of its refusal to accept payment by the state
5 treasurer on its behalf as provided in this paragraph (a) until the state
6 treasurer receives written notice of the rescission of refusal to accept
7 payment.

8 (b) This section applies to revenue bonds issued by IF an
9 institution ISSUES A REVENUE BOND pursuant to this article on or after
10 April 26, 2013, and to THE EFFECTIVE DATE OF THIS PARAGRAPH (b), AS
11 AMENDED, OR ISSUES A refunding bonds issued by an institution BOND
12 pursuant to article 54, 56, or 57 of title 11, C.R.S., on or after April 26,
13 2013, if, on the date the bonds are issued THE EFFECTIVE DATE OF THIS
14 PARAGRAPH (b), AS AMENDED, AND THE GOVERNING BOARD WISHES FOR
15 SUCH REVENUE OR REFUNDING BOND TO BE AN INTERCEPT BOND, THEN:

16 (I) THE MAXIMUM TOTAL ANNUAL DEBT SERVICE PAYMENT OF THE
17 NEW INTERCEPT BOND TO BE ISSUED PLUS THE DEBT SERVICE PAYMENT
18 FOR ALL OTHER INTERCEPT BONDS THAT WERE ISSUED ON OR AFTER JUNE
19 4, 2008, BY THE SAME GOVERNING BOARD, MUST EQUAL SEVENTY-FIVE
20 PERCENT OR LESS OF THE MOST RECENT FISCAL YEAR GENERAL FUND
21 APPROPRIATION FOR STIPENDS AND FEE-FOR-SERVICE CONTRACTS THAT IS
22 REAPPROPRIATED TO SUCH GOVERNING BOARD; AND

23 (H) (II) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS
24 SUBSECTION (1), the governing body of the institution has BOARD MUST
25 HAVE:

26 (A) A credit rating in one of the three highest categories, without
27 regard to modifiers within a category, from at least one nationally

1 recognized statistical rating organization and, if more than one such
2 organization has rated an institution, no credit rating that is in a category
3 below the three highest categories, without regard to modifiers within a
4 category; and

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

11 ~~(H)~~ (III) The pledged revenues for the NEW INTERCEPT BOND issue
12 include not less than:

- 13 (A) The net revenues of auxiliaries;
- 14 (B) Ten percent of tuition if the institution is an enterprise, as
15 defined in section 24-77-102 (3), C.R.S.;
- 16 (C) Indirect cost recovery revenues, if any;
- 17 (D) Facility construction fees designated for bond repayment, if
18 any; and
- 19 (E) Student fees and ancillary revenues currently pledged to
20 existing bondholders; AND

21 (IV) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION
22 (1), THE GOVERNING BOARD HAS OBTAINED A PREAPPROVAL CERTIFICATE
23 FROM THE STATE TREASURER AS DESCRIBED IN SUBPARAGRAPH (II) OF
24 PARAGRAPH (d) OF THIS SUBSECTION (1), AND OBTAINED APPROVAL FROM
25 BOTH THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET
26 COMMITTEE AS SPECIFIED IN SUBSECTION (1.5) OF THIS SECTION.

27 (c) (I) (A) The state treasurer may exempt an institution from the

1 requirements of subparagraph (f) IF THE STATE TREASURER DETERMINES
2 THAT A GOVERNING BOARD DOES NOT MEET THE REQUIREMENTS SET
3 FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1), IF
4 THE STATE TREASURER CONFIRMS THAT THE REVENUE BONDS TO BE ISSUED ARE
5 REFUNDING BONDS THAT RESULT IN COST SAVINGS TO THE INSTITUTION GOVERNING
6 BOARD BASED ON A CASH FLOW ANALYSIS, THE REFUNDING BONDS WILL
7 REFUND INTERCEPT BONDS, AND THE REFUNDING BONDS WILL NOT EXTEND
8 THE NUMBER OF YEARS OF REPAYMENT, THEN THE REQUIREMENTS SET
9 FORTH IN SUBPARAGRAPHS (II) AND (IV) OF PARAGRAPH (b) OF THIS
10 SUBSECTION (1) SHALL NOT APPLY. NO LATER THAN FIFTEEN DAYS AFTER
11 RECEIVING A REQUEST IN WRITING FROM A GOVERNING BOARD TO USE THE
12 INTERCEPT PROGRAM, THE STATE TREASURER SHALL NOTIFY THE CAPITAL
13 DEVELOPMENT COMMITTEE, THE JOINT BUDGET COMMITTEE, THE
14 COLORADO COMMISSION ON HIGHER EDUCATION, AND THE OFFICE OF
15 STATE PLANNING AND BUDGETING THAT THE GOVERNING BOARD HAS MET
16 THE REQUIREMENTS OF THIS SUB-SUBPARAGRAPH (A). THE STATE
17 TREASURER MAY MAKE RECOMMENDATIONS TO THE GOVERNING BOARD
18 REGARDING THE STRUCTURE OF THE REFUNDING.

19 (B) IF THE STATE TREASURER DETERMINES THAT A GOVERNING
20 BOARD DOES NOT MEET THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH
21 (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1), THE STATE TREASURER
22 CONFIRMS THAT THE REVENUE BONDS TO BE ISSUED ARE REFUNDING
23 BONDS THAT RESULT IN COST SAVINGS TO THE GOVERNING BOARD BASED
24 ON A CASH FLOW ANALYSIS, THE REFUNDING BONDS WILL EITHER REFUND
25 REVENUE BONDS THAT ARE NOT INTERCEPT BONDS, OR THE REFUNDING
26 BONDS WILL EXTEND THE NUMBER OF YEARS OF REPAYMENT, THEN THE
27 REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF

1 THIS SUBSECTION (1) SHALL NOT APPLY. NO LATER THAN FIFTEEN DAYS
2 AFTER RECEIVING A REQUEST IN WRITING FROM A GOVERNING BOARD TO
3 USE THE INTERCEPT PROGRAM, THE STATE TREASURER SHALL NOTIFY THE
4 CAPITAL DEVELOPMENT COMMITTEE, THE JOINT BUDGET COMMITTEE, THE
5 COLORADO COMMISSION ON HIGHER EDUCATION, THE OFFICE OF STATE
6 PLANNING AND BUDGETING, AND THE GOVERNING BOARD WHETHER OR
7 NOT HE OR SHE RECOMMENDS THE REQUESTED USE OF THE INTERCEPT
8 PROGRAM. THE GOVERNING BOARD MUST SUBSEQUENTLY SEEK APPROVAL
9 FROM THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET
10 COMMITTEE AS SET FORTH IN SUBSECTION (1.5) OF THIS SECTION. THE
11 NOTIFICATION ISSUED BY THE STATE TREASURER MAY INCLUDE THE STATE
12 TREASURER'S RECOMMENDATIONS REGARDING THE STRUCTURE OF THE
13 REFUNDING.

14 (II) IF THE STATE TREASURER DETERMINES THAT A GOVERNING
15 BOARD MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF
16 PARAGRAPH (b) OF THIS SUBSECTION (1), THE STATE TREASURER CONFIRMS
17 THAT THE REVENUE BONDS TO BE ISSUED ARE REFUNDING BONDS THAT
18 RESULT IN COST SAVINGS TO THE GOVERNING BOARD BASED ON A CASH
19 FLOW ANALYSIS BY THE STATE TREASURER, THE REFUNDING BONDS WILL
20 REFUND INTERCEPT BONDS, AND THE REFUNDING BONDS WILL NOT EXTEND
21 THE NUMBER OF YEARS OF REPAYMENT, THEN THE REQUIREMENTS SET
22 FORTH IN SUBPARAGRAPH (IV) OF PARAGRAPH (b) OF THIS SUBSECTION (1)
23 SHALL NOT APPLY. NO LATER THAN FIFTEEN DAYS AFTER RECEIVING A
24 REQUEST IN WRITING FROM A GOVERNING BOARD TO USE THE INTERCEPT
25 PROGRAM, THE STATE TREASURER SHALL NOTIFY THE CAPITAL
26 DEVELOPMENT COMMITTEE, THE JOINT BUDGET COMMITTEE, THE
27 COLORADO COMMISSION ON HIGHER EDUCATION, AND THE OFFICE OF

1 STATE PLANNING AND BUDGETING THAT THE GOVERNING BOARD HAS MET
2 THE REQUIREMENTS OF THIS SUBPARAGRAPH (II). THE STATE TREASURER
3 MAY MAKE RECOMMENDATIONS TO THE GOVERNING BOARD REGARDING
4 THE STRUCTURE OF THE REFUNDING.

5 (III) THE STATE TREASURER SHALL DEVELOP AND ISSUE
6 GUIDELINES THAT DETAIL HOW THE STATE TREASURER WILL DETERMINE
7 WHETHER A REFUNDING BOND RESULTS IN COST SAVINGS TO THE
8 GOVERNING BOARD BASED ON A CASH FLOW ANALYSIS. THE STATE
9 TREASURER MAY CONSULT WITH FINANCIAL ADVISORS IN ORDER TO
10 DETERMINE WHETHER A REFUNDING BOND RESULTS IN COST SAVINGS TO
11 THE GOVERNING BOARD ON A CASH FLOW ANALYSIS.

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

17 (A) THE CREDIT RATING DESCRIBED IN SUB-SUBPARAGRAPH (A) OF
18 SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1) OF EACH
19 GOVERNING BOARD THAT HAS ISSUED INTERCEPT BONDS;

20 (B) THE DEBT SERVICE COVERAGE RATIO DESCRIBED IN
21 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (b) OF
22 THIS SUBSECTION (1) OF EACH GOVERNING BOARD THAT HAS ISSUED
23 INTERCEPT BONDS;

24 (C) THE TOTAL AMOUNT OF ALL INTERCEPT BONDS ISSUED BY
25 GOVERNING BOARDS, INCLUDING THE ANTICIPATED PAYMENT SCHEDULE
26 FOR SUCH INTERCEPT BONDS; AND

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

1 GOVERNING BOARDS UNDER SECTION 23-5-101.7 (2), INCLUDING THE
2 ANTICIPATED PAYMENT SCHEDULE FOR ALL SUCH REVENUE BONDS.

3 (II) THE REPORT DESCRIBED IN SUBPARAGRAPH (I) OF THIS
4 PARAGRAPH (d) IS THE BASIS FOR THE ANNUAL PREAPPROVAL CERTIFICATE
5 THAT THE STATE TREASURER SHALL ISSUE TO EACH GOVERNING BOARD
6 THAT MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF
7 PARAGRAPH (b) OF THIS SUBSECTION (1). IN THE EVENT A GOVERNING
8 BOARD DESIRES TO ISSUE INTERCEPT BONDS BETWEEN THE EFFECTIVE
9 DATE OF THIS SUBPARAGRAPH (II) AND SEPTEMBER 1, 2016, THE CAPITAL
10 DEVELOPMENT COMMITTEE MAY REQUEST THE STATE TREASURER TO ISSUE
11 AN EARLY PREAPPROVAL CERTIFICATE FOR SUCH GOVERNING BOARD WHEN
12 A PREAPPROVAL CERTIFICATE HAS NOT YET BEEN ISSUED. THE
13 PREAPPROVAL CERTIFICATE MUST INCLUDE THE TOTAL AMOUNT OF
14 INTERCEPT BONDS THAT THE GOVERNING BOARD MAY ISSUE FOR THE
15 PERIOD THAT THE PREAPPROVAL CERTIFICATE COVERS. THE TOTAL
16 AMOUNT OF INTERCEPT BONDS THAT A GOVERNING BOARD MAY ISSUE
17 MUST BE CALCULATED BASED ON THE LESSER OF THE FOLLOWING, AS OF
18 THE DATE OF ISSUANCE OF THE PREAPPROVAL CERTIFICATE:

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

24 (B) THE TOTAL AMOUNT OF ADDITIONAL REVENUE BONDS A
25 GOVERNING BOARD COULD ISSUE WHILE MAINTAINING THE REQUIREMENTS
26 SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION
27 (1).

1 (III) THE PREAPPROVAL CERTIFICATE DESCRIBED IN
2 SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) MAY BE AMENDED IF
3 REQUESTED BY THE CAPITAL DEVELOPMENT COMMITTEE AS SPECIFIED IN
4 SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (1.5) OF THIS
5 SECTION.

6 (IV) THE PREAPPROVAL CERTIFICATE DESCRIBED IN
7 SUBPARAGRAPH (II) OF THIS PARAGRAPH (d) MAY INCLUDE THE STATE
8 TREASURER'S RECOMMENDATIONS REGARDING THE STRUCTURE OF ANY
9 INTERCEPT BONDS TO BE ISSUED.

10 (1.5) (a) (I) A GOVERNING BOARD DESIRING TO ISSUE INTERCEPT
11 BONDS SHALL PRESENT THE STATE TREASURER'S PREAPPROVAL
12 CERTIFICATE, DESCRIBED IN PARAGRAPH (d) OF SUBSECTION (1) OF THIS
13 SECTION, TO THE CAPITAL DEVELOPMENT COMMITTEE AND REQUEST
14 APPROVAL FROM THE CAPITAL DEVELOPMENT COMMITTEE. THE REQUEST
15 MUST INCLUDE:

16 (A) A DESCRIPTION OF THE PROJECT OR PROJECTS THAT THE
17 GOVERNING BOARD SEEKS TO FINANCE THROUGH THE ISSUANCE OF
18 INTERCEPT BONDS;

19 (B) THE MAXIMUM AMOUNT OF INTERCEPT BONDS THE GOVERNING
20 BOARD SEEKS TO ISSUE FOR THE PROJECT OR PROJECTS;

21 (C) THE ANTICIPATED TERMS OF THE INTERCEPT BONDS INCLUDING
22 THE MAXIMUM ANTICIPATED ANNUAL DEBT SERVICE PAYMENT; AND

23 (D) IF AVAILABLE, A COPY OF THE GOVERNING BOARD'S
24 RESOLUTION THAT AUTHORIZES THE ISSUANCE OF REVENUE BONDS.

25 (II) IF THERE ARE ACTUAL OR ANTICIPATED CHANGES TO THE
26 FINANCIAL POSITION AND CREDIT RATING OF THE GOVERNING BOARD THAT
27 MAY AFFECT THE GOVERNING BOARD'S COMPLIANCE WITH PARAGRAPH (b)

1 OF SUBSECTION (1) OF THIS SECTION SINCE THE PREAPPROVAL CERTIFICATE
2 WAS ISSUED BY THE STATE TREASURER, THE GOVERNING BOARD SHALL
3 PROVIDE THE CAPITAL DEVELOPMENT COMMITTEE WITH DOCUMENTATION
4 REGARDING SUCH CHANGES. THE CAPITAL DEVELOPMENT COMMITTEE MAY
5 REQUEST THE STATE TREASURER TO PREPARE AN AMENDED PREAPPROVAL
6 CERTIFICATE ON THE BASIS OF THE ADDITIONAL DOCUMENTATION.

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

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'S
27 REQUEST TO FINANCE THE PROJECT OR PROJECTS THROUGH THE ISSUANCE

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

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

12 (e) THE CAPITAL DEVELOPMENT COMMITTEE SHALL DEVELOP
13 INSTRUCTIONS ON THE FORMAT FOR REQUESTS FOR APPROVAL TO ISSUE
14 INTERCEPT BONDS. SUCH INSTRUCTIONS MUST BE DEVELOPED IN
15 CONSULTATION WITH THE JOINT BUDGET COMMITTEE, THE COLORADO
16 COMMISSION ON HIGHER EDUCATION, AND THE OFFICE OF STATE PLANNING
17 AND BUDGETING. IF A REQUEST TO ISSUE INTERCEPT BONDS DOES NOT
18 RELATE TO A NEW CAPITAL CONSTRUCTION, CAPITAL RENEWAL, OR
19 CONTROLLED MAINTENANCE PROJECT, THE GUIDELINES MAY ALLOW THE
20 GOVERNING BOARD TO SUBMIT THE REQUEST DIRECTLY TO THE CAPITAL
21 DEVELOPMENT COMMITTEE.

22 (f) THE CAPITAL DEVELOPMENT COMMITTEE MAY REQUEST INPUT
23 FROM THE STATE TREASURER ON ALL REQUESTS FROM A GOVERNING
24 BOARD TO EXPAND OR RESTRUCTURE INTERCEPT BONDS.

25 (2) Whenever the paying agent has not received payment of
26 principal of or interest on INTERCEPT bonds or other obligations to which
27 this section applies on the business day immediately prior to the date on

1 which such payment is due, the paying agent shall so notify the state
2 treasurer and the institution by telephone, facsimile, or other similar
3 communication, followed by written verification, of such payment status.
4 The state treasurer shall immediately contact the institution and determine
5 whether the institution will make the payment by the date on which it is
6 due.

7 (3) If an institution indicates that it will not make a payment by
8 the date on which it is due, or if the state treasurer is unable to contact the
9 institution, the state treasurer shall forward the amount in immediately
10 available funds necessary to make the payment of the principal of or
11 interest on the ~~bonds or other obligations of the institution~~ INTERCEPT
12 BONDS to the paying agent. The state treasurer shall recover the amount
13 forwarded by withholding amounts from the institution's payments of the
14 state's fee-for-service contract with the institution, from any other state
15 support for the institution, and from any unpledged tuition OR OTHER
16 moneys collected by the institution. The total amount withheld in a month
17 from the state's fee-for-service contract with the institution for each
18 occasion on which the state treasurer forwards an amount pursuant to this
19 section shall not exceed one-twelfth of the amount forwarded. The state
20 treasurer shall not withhold for more than twelve consecutive months for
21 each occasion on which the treasurer forwards amounts pursuant to this
22 section. Notwithstanding any other provision of this subsection (3), an
23 institution may elect to make early repayment of all or any portion of an
24 amount forwarded by the state treasurer on behalf of the institution
25 pursuant to this section.

26 (4) The amounts forwarded to the paying agent by the state
27 treasurer pursuant to subsection (3) of this section shall be applied by the

1 paying agent solely to the payment of the principal of or interest on such
2 bonds or other obligations of the institution INTERCEPT BONDS. The state
3 treasurer shall notify the department of higher education and the general
4 assembly of amounts withheld and payments made pursuant to this
5 section. Institutions that have a debt service payment forwarded to the
6 paying agent by the state treasurer shall not request a supplemental
7 general fund appropriation or budget amendment for the amount
8 forwarded in order to replace withheld fee-for-service revenue.

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

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

1 (c) The failure of any institution GOVERNING BOARD to file such
2 ANY information shall REQUIRED IN THIS SUBSECTION (5) DOES not affect
3 the obligation of the state treasurer to withhold the state's fee-for-service
4 contract payments to the institution STATE TREASURER'S OBLIGATIONS SET
5 FORTH IN THIS SECTION.

6 (6) As provided in section 11 of article II of the state constitution,
7 the state hereby covenants with the purchasers and owners of INTERCEPT
8 bonds issued by institutions that it will not repeal, revoke, or rescind the
9 provisions of this section or modify or amend this section so as to limit
10 or impair the rights and remedies granted by this section; except that
11 nothing in this subsection (6) shall be deemed or construed to require the
12 state to continue the payment of state assistance to any institution or to
13 limit or prohibit the state from repealing, amending, or modifying any law
14 relating to the amount of state assistance to institutions or the manner of
15 payment or the timing thereof. Nothing in this section shall be deemed or
16 construed to create a debt of the state with respect to such INTERCEPT
17 bonds within the meaning of any state constitutional provision or to create
18 any other liability except to the extent provided in this section.

19 (7) Whenever the state treasurer is required by this section to
20 make a payment of principal of or interest on INTERCEPT bonds or other
21 obligations on behalf of an institution, the department of higher education
22 shall initiate an audit of the institution to determine the reason for the
23 nonpayment and to assist the institution, if necessary, in developing and
24 implementing measures to ensure that future payments will be made when
25 they are due.

26 (8) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
27 REQUIRES:

1 (a) "CASH FLOW ANALYSIS" MEANS A COMPARISON MADE BY THE
2 STATE TREASURER OF A GOVERNING BOARD'S ANNUAL DEBT SERVICE
3 CURRENTLY BEING PAID ON THE REVENUE BONDS OR INTERCEPT BONDS TO
4 BE REFUNDED VERSUS ANNUAL DEBT SERVICE TO BE PAID ON THE
5 INTERCEPT BONDS BEING ISSUED TO EFFECTUATE THE REFUNDING AND THE
6 RESULTING DEBT SERVICE SAVINGS OR DISSAVINGS THAT ARE GENERATED.
7 THE CASH FLOW ANALYSIS MUST CONSIDER THE UNIVERSE OF REFUNDING
8 CANDIDATES AND REFUNDING BOND STATISTICS INCLUDING THE TRUE
9 INTEREST COST, AVERAGE LIFE OF REFUNDED AND REFUNDING BONDS,
10 AVERAGE ANNUAL DEBT SERVICE, GROSS DEBT SERVICE, AND THE
11 EXPECTED PRESENT VALUE SAVINGS ON THE REFUNDING.

12 (b) "GOVERNING BOARD" MEANS THE GOVERNING BODY OF A
13 STATE INSTITUTION OF HIGHER EDUCATION.

14 (c) "INTERCEPT BONDS" MEANS REVENUE BONDS, REFUNDING
15 BONDS, OR OTHER OBLIGATIONS ISSUED PURSUANT TO THIS SECTION.

16 (d) "INTERCEPT PROGRAM" MEANS THE PROGRAM SET FORTH IN
17 THIS SECTION.

18 (e) "STATE INSTITUTION OF HIGHER EDUCATION" OR "INSTITUTION"
19 HAS THE SAME MEANING AS SET FORTH IN SECTION 23-18-102 (10).

20 ==

21 **SECTION 2.** In Colorado Revised Statutes, 23-1-106, **amend** (1),
22 (3), (5) (a), (6), (7) (a), (7) (c) (I), (9), (10.2) (a) (I), and (10.5); and
23 **repeal** (10) and (11) (a) (II) as follows:

24 **23-1-106. Duties and powers of the commission with respect**
25 **to capital construction and long-range planning - legislative**
26 **declaration - definitions.** (1) Except as permitted by subsections (9) and
27 ~~(10)~~ SUBSECTION (9) of this section, it is declared to be the policy of the

1 general assembly not to authorize any activity requiring capital
2 construction or capital renewal for state institutions of higher education
3 unless approved by the commission.

4 (3) The commission shall review and approve facility master plans
5 for all state institutions of higher education on land owned or controlled
6 by the state or an institution and capital construction or capital renewal
7 program plans for projects other than those projects described in
8 subsection (9) ~~or (10)~~ of this section. The commission shall forward the
9 approved facility master plans to the office of the state architect. Except
10 for those projects described in subsection (9) ~~or (10)~~ of this section, no
11 capital construction or capital renewal shall commence except in
12 accordance with an approved facility master plan and program plan.

13 (5) (a) The commission shall approve plans for any capital
14 construction or capital renewal project at any state institution of higher
15 education regardless of the source of funds; except that the commission
16 need not approve plans for any capital construction or capital renewal
17 project at a local district college or area vocational school or for any
18 capital construction or capital renewal project described in subsection (9)
19 ~~or (10)~~ of this section.

20 (6) (a) The commission shall request annually from each
21 governing board of each state institution of higher education a five-year
22 projection of capital construction or capital renewal projects to be
23 constructed but not including those projects described in subsection (9)
24 ~~or (10)~~ of this section. The projection must include the estimated cost, the
25 method of funding, a schedule for project completion, and the governing
26 board-approved priority for each project. The commission shall determine
27 whether a proposed project is consistent with the role and mission and

1 master planning of the institution and conforms to standards
2 recommended by the commission.

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

12 (7) (a) The commission annually shall prepare a unified, five-year
13 capital improvements report of projects to be constructed, but not
14 including those capital construction or capital renewal projects to be
15 undertaken pursuant to subsection (9) ~~or (10)~~ of this section, coordinated
16 with education plans. The commission shall transmit the report to the
17 office of state planning and budgeting, the office of the state architect, the
18 capital development committee, and the joint budget committee,
19 consistent with the executive budget timetable, together with a
20 recommended priority of funding of capital construction or capital
21 renewal projects for the system of public higher education. The
22 commission shall annually transmit the recommended priority of funding
23 of capital construction or capital renewal projects to the capital
24 development committee no later than November 1 of each year.

25 (c) (I) The commission annually shall prepare a unified, two-year
26 report for capital construction or capital renewal projects described in
27 subsection (9) ~~or (10)~~ of this section and estimated to require total project

1 expenditures exceeding two million dollars, coordinated with education
2 plans. The commission shall transmit the report to the office of state
3 planning and budgeting, the governor, the capital development
4 committee, and the joint budget committee, consistent with the executive
5 budget timetable.

6 (9) (a) Except as provided in paragraph (d) of this subsection (9),
7 a capital construction or capital renewal project for an auxiliary 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 and operated and maintained solely from cash
13 funds held by the institution is not subject to additional review or
14 approval by the commission, the office of state planning and budgeting,
15 the capital development committee, or the joint budget committee;
16 EXCEPT THAT, IF THE CAPITAL CONSTRUCTION OR CAPITAL RENEWAL
17 PROJECT FOR AN AUXILIARY FACILITY IS TO BE ACQUIRED OR
18 CONSTRUCTED IN WHOLE OR IN PART USING MONEYS SUBJECT TO THE
19 HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED
20 PURSUANT TO SECTION 23-5-139, THEN THE GOVERNING BOARD OF A
21 STATE INSTITUTION OF HIGHER EDUCATION MUST OBTAIN APPROVAL FROM
22 THE GENERAL ASSEMBLY AS SPECIFIED IN THAT SECTION.

23 (b) Except as provided in paragraph (d) of this subsection (9), a
24 capital construction or capital renewal project for an academic facility
25 initiated by the governing board of a state institution of higher education
26 that is contained in the most recent two-year projection approved pursuant
27 to subparagraph (II) of paragraph (c) of subsection (7) of this section, as

1 the projection may be amended from time to time, and that is to be
2 acquired or constructed solely from cash funds held by the institution and
3 operated and maintained from such funds or from state moneys
4 appropriated for such purpose, or both, is not subject to additional review
5 or approval by the commission, the office of state planning and
6 budgeting, the capital development committee, or the joint budget
7 committee; EXCEPT THAT, IF THE CAPITAL CONSTRUCTION OR CAPITAL
8 RENEWAL PROJECT FOR AN ACADEMIC FACILITY IS TO BE ACQUIRED OR
9 CONSTRUCTED IN WHOLE OR IN PART USING MONEYS SUBJECT TO THE
10 HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED
11 PURSUANT TO SECTION 23-5-139, THEN THE GOVERNING BOARD OF A
12 STATE INSTITUTION OF HIGHER EDUCATION MUST OBTAIN APPROVAL FROM
13 THE GENERAL ASSEMBLY AS SPECIFIED IN THAT SECTION. Any capital
14 construction or capital renewal project subject to this paragraph (b) must
15 comply with the high performance standard certification program
16 established pursuant to section 24-30-1305.5, C.R.S.

17 (c) Each governing board shall ensure, consistent with its
18 responsibilities as set forth in section 5 (2) of article VIII of the state
19 constitution, that a capital construction or capital renewal project initiated
20 pursuant to this subsection (9) is in accordance with its institution's
21 mission, be of a size and scope to provide for the defined program needs,
22 and be designed in accordance with all applicable building codes and
23 accessibility standards.

24 (d) (I) ~~The provisions of this subsection (9) do not apply to a~~
25 ~~capital construction or capital renewal project that is to be acquired or~~
26 ~~constructed in whole or in part using moneys subject to the higher~~
27 ~~education revenue bond intercept program established pursuant to section~~

1 ~~23-5-139:~~

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

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

13 ~~(10) (a) (I) The commission shall review and approve any plan for~~
14 ~~a capital construction or capital renewal project for an auxiliary facility~~
15 ~~that is estimated to require total expenditures exceeding two million~~
16 ~~dollars and that is to be acquired or constructed and operated and~~
17 ~~maintained solely from cash funds held by the state institution of higher~~
18 ~~education that, in whole or in part, are subject to the higher education~~
19 ~~revenue bond intercept program established pursuant to section 23-5-139.~~

20 ~~(II) The commission shall review and approve any plan for a~~
21 ~~capital construction or capital renewal project for an academic facility~~
22 ~~that is estimated to require total expenditures exceeding two million~~
23 ~~dollars, that is to be acquired or constructed solely from cash funds held~~
24 ~~by the state institution of higher education that, in whole or in part, are~~
25 ~~subject to the higher education revenue bond intercept program~~
26 ~~established pursuant to section 23-5-139, and that is operated and~~
27 ~~maintained from such cash funds or from state moneys appropriated for~~

1 such purpose, or both. Any capital construction or capital renewal project
2 subject to this subparagraph (H) must comply with the high performance
3 standard certification program established pursuant to section
4 24-30-1305.5, C.R.S.

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

8 (b) ~~Upon approval of a plan for a capital construction or capital~~
9 ~~renewal project pursuant to paragraph (a) of this subsection (10), the~~
10 ~~commission shall submit the plan to the capital development committee.~~
11 ~~The capital development committee shall make a recommendation~~
12 ~~regarding the project to the joint budget committee. Following the receipt~~
13 ~~of the recommendation, the joint budget committee shall refer its~~
14 ~~recommendations regarding the project, with written comments, to the~~
15 ~~commission.~~

16 (c) ~~A capital construction project approved and appropriated prior~~
17 ~~to January 1, 2010, may be contained in the most recent two-year~~
18 ~~projection approved pursuant to subparagraph (H) of paragraph (c) of~~
19 ~~subsection (7) of this section, and the projection may be amended from~~
20 ~~time to time.~~

21 (10.2) (a) (I) Notwithstanding any law to the contrary, all
22 academic facilities acquired or constructed, or an auxiliary facility
23 repurposed for use as an academic facility, solely from cash funds held by
24 the state institution of higher education and operated and maintained from
25 such cash funds or from state moneys appropriated for such purpose, or
26 both, including, but not limited to, those facilities described in paragraph
27 (b) of subsection (9) of this section, ~~and subparagraph (H) of paragraph~~

1 ~~(a) of subsection (10) of this section,~~ that did not previously qualify for
2 state controlled maintenance funding will qualify for state controlled
3 maintenance funding, subject to funding approval by the capital
4 development committee and the eligibility guidelines described in section
5 24-30-1303.9, C.R.S.

6 (10.5) (a) For any project subject to subsection (9) ~~or (10)~~ of this
7 section, if, after commencement of construction, the governing board of
8 the state institution of higher education receives an additional gift, grant,
9 or donation for the project, the governing board may amend the project
10 without the approval of the commission, the office of state planning and
11 budgeting, the capital development committee, or the joint budget
12 committee so long as the governing board notifies the commission, the
13 office of state planning and budgeting, the capital development
14 committee, and the joint budget committee in writing, explaining how the
15 project has been amended and verifying the receipt of the additional gift,
16 grant, or donation.

17 (b) For any project subject to subsection (9) ~~or (10)~~ of this section,
18 the governing board may enhance the project in an amount not to exceed
19 fifteen percent of the original estimate of the cost of the project without
20 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 enhanced and the source of the moneys for the
26 enhancement.

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

1 the governing board of the state institution of higher education
2 implementing the project is not required to submit for the project
3 quarterly expenditure reports as described in section 24-30-204 (2),
4 C.R.S. The governing board shall submit for the project annual
5 expenditure reports as required in section 24-30-204 (1), C.R.S.

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

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

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

13 **24-30-204. Fiscal year.** (2) (b) Notwithstanding the provisions
14 of paragraph (a) of this subsection (2), a governing board that implements
15 a capital construction or acquisition project as described in section
16 23-1-106 (9), ~~or (10)~~, C.R.S., is not required to submit for the project
17 quarterly reports as described in paragraph (a) of this subsection (2).

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

20 **24-30-1303. Office of the state architect - responsibilities.**

21 (5) (c) If the state architect determines that the governing board of a state
22 institution of higher education has adopted procedures that adequately
23 meet the safeguards set forth in the requirements of part 14 of this article
24 and article 92 of this title, the state architect may exempt the institution
25 from any of the procedural requirements of part 14 of this article and
26 article 92 of this title in regard to a capital construction project to be
27 constructed pursuant to the provisions of section 23-1-106 (9), ~~or (10)~~;

1 C.R.S.; except that the selection of any contractor to perform professional
2 services as defined in section 24-30-1402 (6) must be made in accordance
3 with the criteria set forth in section 24-30-1403 (2).

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

6 **24-37-304. Additional budgeting responsibilities.** (1) In
7 addition to the responsibilities enumerated in section 24-37-302, the
8 office of state planning and budgeting shall:

9 (c.3) (I) Ensure submission to the capital development committee
10 of:

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

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