

SENATE COMMITTEE OF REFERENCE REPORT

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Chairman of Committee

May 3, 2016  
Date

Committee on Appropriations.

After consideration on the merits, the Committee recommends the following:

SB16-204 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 3, strike lines 2 through 20 and substitute:

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  
21 this section. Notwithstanding any provision of subsections (2) to (7) of  
22 this section to the contrary, the state treasurer shall not make payment of

1 principal of or interest on INTERCEPT bonds on behalf of an institution that  
2 provides written notice of its refusal to accept payment by the state  
3 treasurer on its behalf as provided in this paragraph (a) until the state  
4 treasurer receives written notice of the rescission of refusal to accept  
5 payment.

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

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

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

24 (A) A credit rating in one of the three highest categories, without  
25 regard to modifiers within a category, from at least one nationally  
26 recognized statistical rating organization and, if more than one such  
27 organization has rated an institution, no credit rating that is in a category  
28 below the three highest categories, without regard to modifiers within a  
29 category; and

30 (B) A debt service coverage ratio of at least one and one-half to  
31 one, measured by dividing the ~~institution's~~ GOVERNING BOARD'S net  
32 revenue available for annual debt service over ~~the~~ SUCH GOVERNING  
33 BOARD'S total amount of annual debt service ~~subject to this article and~~  
34 PLUS the annual debt service to be issued ~~pursuant to this article~~ BY SUCH  
35 GOVERNING BOARD; and

36 (H) (III) The pledged revenues for the NEW INTERCEPT BOND issue  
37 include not less than:

38 (A) The net revenues of auxiliaries;

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

1 (C) Indirect cost recovery revenues, if any;  
2 (D) Facility construction fees designated for bond repayment, if  
3 any; and  
4 (E) Student fees and ancillary revenues currently pledged to  
5 existing bondholders; AND  
6 (IV) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION  
7 (1), THE GOVERNING BOARD HAS OBTAINED A PREAPPROVAL CERTIFICATE  
8 FROM THE STATE TREASURER AS DESCRIBED IN SUBPARAGRAPH (II) OF  
9 PARAGRAPH (d) OF THIS SUBSECTION (1), AND OBTAINED APPROVAL FROM  
10 BOTH THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET  
11 COMMITTEE AS SPECIFIED IN SUBSECTION (1.5) OF THIS SECTION.  
12 (c) (I) (A) ~~The state treasurer may exempt an institution from the~~  
13 ~~requirements of subparagraph (I)~~ IF THE STATE TREASURER DETERMINES  
14 THAT A GOVERNING BOARD DOES NOT MEET THE REQUIREMENTS SET  
15 FORTH IN SUBPARAGRAPH (II) of paragraph (b) of this subsection (1), if  
16 the STATE TREASURER CONFIRMS THAT THE revenue bonds to be issued are  
17 refunding bonds that result in cost savings to the ~~institution~~ GOVERNING  
18 BOARD BASED ON A CASH FLOW ANALYSIS, THE REFUNDING BONDS WILL  
19 REFUND INTERCEPT BONDS, AND THE REFUNDING BONDS WILL NOT EXTEND  
20 THE NUMBER OF YEARS OF REPAYMENT, THEN THE REQUIREMENTS SET  
21 FORTH IN SUBPARAGRAPHS (II) AND (IV) OF PARAGRAPH (b) OF THIS  
22 SUBSECTION (1) SHALL NOT APPLY. NO LATER THAN FIFTEEN DAYS AFTER  
23 RECEIVING A REQUEST IN WRITING FROM A GOVERNING BOARD TO USE THE  
24 INTERCEPT PROGRAM, THE STATE TREASURER SHALL NOTIFY THE CAPITAL  
25 DEVELOPMENT COMMITTEE, THE JOINT BUDGET COMMITTEE, THE  
26 COLORADO COMMISSION ON HIGHER EDUCATION, AND THE OFFICE OF  
27 STATE PLANNING AND BUDGETING THAT THE GOVERNING BOARD HAS MET  
28 THE REQUIREMENTS OF THIS SUB-SUBPARAGRAPH (A). THE STATE  
29 TREASURER MAY MAKE RECOMMENDATIONS TO THE GOVERNING BOARD  
30 REGARDING THE STRUCTURE OF THE REFUNDING.  
31 (B) IF THE STATE TREASURER DETERMINES THAT A GOVERNING  
32 BOARD DOES NOT MEET THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH  
33 (II) OF PARAGRAPH (b) OF THIS SUBSECTION (1), THE STATE TREASURER  
34 CONFIRMS THAT THE REVENUE BONDS TO BE ISSUED ARE REFUNDING  
35 BONDS THAT RESULT IN COST SAVINGS TO THE GOVERNING BOARD BASED  
36 ON A CASH FLOW ANALYSIS, THE REFUNDING BONDS WILL EITHER REFUND  
37 REVENUE BONDS THAT ARE NOT INTERCEPT BONDS, OR THE REFUNDING  
38 BONDS WILL EXTEND THE NUMBER OF YEARS OF REPAYMENT, THEN THE  
39 REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF  
40 THIS SUBSECTION (1) SHALL NOT APPLY. NO LATER THAN FIFTEEN DAYS

1 AFTER RECEIVING A REQUEST IN WRITING FROM A GOVERNING BOARD TO  
2 USE THE INTERCEPT PROGRAM, THE STATE TREASURER SHALL NOTIFY THE  
3 CAPITAL DEVELOPMENT COMMITTEE, THE JOINT BUDGET COMMITTEE, THE  
4 COLORADO COMMISSION ON HIGHER EDUCATION, THE OFFICE OF STATE  
5 PLANNING AND BUDGETING, AND THE GOVERNING BOARD WHETHER OR  
6 NOT HE OR SHE RECOMMENDS THE REQUESTED USE OF THE INTERCEPT  
7 PROGRAM. THE GOVERNING BOARD MUST SUBSEQUENTLY SEEK APPROVAL  
8 FROM THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET  
9 COMMITTEE AS SET FORTH IN SUBSECTION (1.5) OF THIS SECTION. THE  
10 NOTIFICATION ISSUED BY THE STATE TREASURER MAY INCLUDE THE STATE  
11 TREASURER'S RECOMMENDATIONS REGARDING THE STRUCTURE OF THE  
12 REFUNDING.

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

31 (III) THE STATE TREASURER SHALL DEVELOP AND ISSUE  
32 GUIDELINES THAT DETAIL HOW THE STATE TREASURER WILL DETERMINE  
33 WHETHER A REFUNDING BOND RESULTS IN COST SAVINGS TO THE  
34 GOVERNING BOARD BASED ON A CASH FLOW ANALYSIS. THE STATE  
35 TREASURER MAY CONSULT WITH FINANCIAL ADVISORS IN ORDER TO  
36 DETERMINE WHETHER A REFUNDING BOND RESULTS IN COST SAVINGS TO  
37 THE GOVERNING BOARD ON A CASH FLOW ANALYSIS.

38 (d) (I) NO LATER THAN SEPTEMBER 1, 2016, AND EACH SEPTEMBER  
39 1 THEREAFTER, THE STATE TREASURER SHALL PROVIDE THE CAPITAL  
40 DEVELOPMENT COMMITTEE, THE JOINT BUDGET COMMITTEE, THE

1 COLORADO COMMISSION ON HIGHER EDUCATION, AND THE OFFICE OF  
2 STATE PLANNING AND BUDGETING WITH A REPORT THAT INCLUDES:

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

6 (B) THE DEBT SERVICE COVERAGE RATIO DESCRIBED IN  
7 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (b) OF  
8 THIS SUBSECTION (1) OF EACH GOVERNING BOARD THAT HAS ISSUED  
9 INTERCEPT BONDS;

10 (C) THE TOTAL AMOUNT OF ALL INTERCEPT BONDS ISSUED BY  
11 GOVERNING BOARDS, INCLUDING THE ANTICIPATED PAYMENT SCHEDULE  
12 FOR SUCH INTERCEPT BONDS; AND

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

16 (II) THE REPORT DESCRIBED IN SUBPARAGRAPH (I) OF THIS  
17 PARAGRAPH (d) IS THE BASIS FOR THE ANNUAL PREAPPROVAL CERTIFICATE  
18 THAT THE STATE TREASURER SHALL ISSUE TO EACH GOVERNING BOARD  
19 THAT MEETS THE REQUIREMENTS SET FORTH IN SUBPARAGRAPH (II) OF  
20 PARAGRAPH (b) OF THIS SUBSECTION (1). IN THE EVENT A GOVERNING  
21 BOARD DESIRES TO ISSUE INTERCEPT BONDS BETWEEN THE EFFECTIVE  
22 DATE OF THIS SUBPARAGRAPH (II) AND SEPTEMBER 1, 2016, THE CAPITAL  
23 DEVELOPMENT COMMITTEE MAY REQUEST THE STATE TREASURER TO ISSUE  
24 AN EARLY PREAPPROVAL CERTIFICATE FOR SUCH GOVERNING BOARD WHEN  
25 A PREAPPROVAL CERTIFICATE HAS NOT YET BEEN ISSUED. THE  
26 PREAPPROVAL CERTIFICATE MUST INCLUDE THE TOTAL AMOUNT OF  
27 INTERCEPT BONDS THAT THE GOVERNING BOARD MAY ISSUE FOR THE  
28 PERIOD THAT THE PREAPPROVAL CERTIFICATE COVERS. THE TOTAL  
29 AMOUNT OF INTERCEPT BONDS THAT A GOVERNING BOARD MAY ISSUE  
30 MUST BE CALCULATED BASED ON THE LESSER OF THE FOLLOWING, AS OF  
31 THE DATE OF ISSUANCE OF THE PREAPPROVAL CERTIFICATE:

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

37 (B) THE TOTAL AMOUNT OF ADDITIONAL REVENUE BONDS A  
38 GOVERNING BOARD COULD ISSUE WHILE MAINTAINING THE REQUIREMENTS  
39 SET FORTH IN SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS SUBSECTION  
40 (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)  
28 OF SUBSECTION (1) OF THIS SECTION SINCE THE PREAPPROVAL CERTIFICATE  
29 WAS ISSUED BY THE STATE TREASURER, THE GOVERNING BOARD SHALL  
30 PROVIDE THE CAPITAL DEVELOPMENT COMMITTEE WITH DOCUMENTATION  
31 REGARDING SUCH CHANGES. THE CAPITAL DEVELOPMENT COMMITTEE MAY  
32 REQUEST THE STATE TREASURER TO PREPARE AN AMENDED PREAPPROVAL  
33 CERTIFICATE ON THE BASIS OF THE ADDITIONAL DOCUMENTATION.

34 (b) NO LATER THAN THIRTY DAYS AFTER THE REQUEST FOR  
35 APPROVAL DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5)  
36 DURING A REGULAR LEGISLATIVE SESSION OF THE GENERAL ASSEMBLY, OR  
37 NO LATER THAN FORTY-FIVE DAYS AFTER THE REQUEST FOR APPROVAL  
38 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5) DURING ANY  
39 PERIOD THAT THE GENERAL ASSEMBLY IS NOT IN REGULAR LEGISLATIVE  
40 SESSION, THE CAPITAL DEVELOPMENT COMMITTEE SHALL REVIEW THE

1 REQUEST FOR APPROVAL AND FORWARD A LETTER TO THE JOINT BUDGET  
2 COMMITTEE SETTING FORTH ITS APPROVAL OR DISAPPROVAL FOR SUCH  
3 GOVERNING BOARD TO USE THE INTERCEPT PROGRAM AND, IF APPROVED,  
4 ANY RECOMMENDATIONS THE CAPITAL DEVELOPMENT COMMITTEE MAY  
5 HAVE REGARDING THE MAXIMUM AMOUNT OF INTERCEPT BONDS THAT  
6 MAY BE ISSUED BY SUCH GOVERNING BOARD.

7 (c) NO LATER THAN FORTY-FIVE DAYS AFTER RECEIPT OF THE  
8 LETTER FROM THE CAPITAL DEVELOPMENT COMMITTEE DURING THE  
9 PERIOD OF OCTOBER 10 TO APRIL 10 OF ANY CALENDAR YEAR, OR NO  
10 LATER THAN NINETY-FIVE DAYS AFTER RECEIPT OF THE LETTER FROM THE  
11 CAPITAL DEVELOPMENT COMMITTEE DURING THE PERIOD OF APRIL 11 TO  
12 OCTOBER 9 OF ANY CALENDAR YEAR, THE JOINT BUDGET COMMITTEE  
13 SHALL REVIEW THE PROJECT OR PROJECTS AND THE GOVERNING BOARD'S  
14 REQUEST TO FINANCE THE PROJECT OR PROJECTS THROUGH THE ISSUANCE  
15 OF INTERCEPT BONDS. THE JOINT BUDGET COMMITTEE SHALL FORWARD A  
16 LETTER TO THE STATE TREASURER, THE OFFICE OF STATE PLANNING AND  
17 BUDGETING, THE COLORADO COMMISSION ON HIGHER EDUCATION, AND  
18 THE GOVERNING BOARD SETTING FORTH THE COMMITTEE'S APPROVAL OR  
19 DISAPPROVAL FOR SUCH GOVERNING BOARD TO USE THE INTERCEPT  
20 PROGRAM AND THE MAXIMUM AMOUNT OF INTERCEPT BONDS THAT MAY  
21 BE ISSUED BY SUCH GOVERNING BOARD.

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

26 (e) THE CAPITAL DEVELOPMENT COMMITTEE SHALL DEVELOP  
27 INSTRUCTIONS ON THE FORMAT FOR REQUESTS FOR APPROVAL TO ISSUE  
28 INTERCEPT BONDS. SUCH INSTRUCTIONS MUST BE DEVELOPED IN  
29 CONSULTATION WITH THE JOINT BUDGET COMMITTEE, THE COLORADO  
30 COMMISSION ON HIGHER EDUCATION, AND THE OFFICE OF STATE PLANNING  
31 AND BUDGETING. IF A REQUEST TO ISSUE INTERCEPT BONDS DOES NOT  
32 RELATE TO A NEW CAPITAL CONSTRUCTION, CAPITAL RENEWAL, OR  
33 CONTROLLED MAINTENANCE PROJECT, THE GUIDELINES MAY ALLOW THE  
34 GOVERNING BOARD TO SUBMIT THE REQUEST DIRECTLY TO THE CAPITAL  
35 DEVELOPMENT COMMITTEE.

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

39 (2) Whenever the paying agent has not received payment of  
40 principal of or interest on INTERCEPT bonds ~~or other obligations to which~~

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

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

27 (4) The amounts forwarded to the paying agent by the state  
28 treasurer pursuant to subsection (3) of this section shall be applied by the  
29 paying agent solely to the payment of the principal of or interest on such  
30 ~~bonds or other obligations of the institution~~ INTERCEPT BONDS. The state  
31 treasurer shall notify the department of higher education and the general  
32 assembly of amounts withheld and payments made pursuant to this  
33 section. Institutions that have a debt service payment forwarded to the  
34 paying agent by the state treasurer shall not request a supplemental  
35 general fund appropriation or budget amendment for the amount  
36 forwarded in order to replace withheld fee-for-service revenue.

37 (5) (a) Any ~~institution~~ GOVERNING BOARD with a ~~bond~~ AN  
38 INTERCEPT BOND issue for which this section applies shall file with the  
39 state treasurer WITHIN THIRTY DAYS OF ITS PUBLIC RELEASE a copy of the  
40 resolution that authorizes the issuance of INTERCEPT bonds; a copy of the



1 official statement or other offering document for the INTERCEPT bonds;  
2 the agreement, if any, with the paying agent for the INTERCEPT bonds; and  
3 the name, address, and telephone number of the paying agent. A COPY OF  
4 THE OFFICIAL STATEMENT OR OTHER OFFERING DOCUMENT FOR THE  
5 INTERCEPT BONDS MUST ALSO BE SUBMITTED WITHIN THIRTY DAYS OF ITS  
6 PUBLIC RELEASE TO THE OFFICE OF STATE PLANNING AND BUDGETING, THE  
7 COLORADO COMMISSION ON HIGHER EDUCATION, THE CAPITAL  
8 DEVELOPMENT COMMITTEE, AND THE JOINT BUDGET COMMITTEE.

9 (b) ON THE DAY A PRELIMINARY OFFICIAL STATEMENT IS PUBLICLY  
10 RELEASED FOR AN INTERCEPT BOND TO BE ISSUED, THE GOVERNING BOARD  
11 SHALL NOTIFY THE STATE TREASURER, THE OFFICE OF STATE PLANNING  
12 AND BUDGETING, THE COLORADO COMMISSION ON HIGHER EDUCATION,  
13 THE CAPITAL DEVELOPMENT COMMITTEE, AND THE JOINT BUDGET  
14 COMMITTEE BY PROVIDING AN ELECTRONIC LINK TO OR AN ELECTRONIC  
15 COPY OF THE PRELIMINARY OFFICIAL STATEMENT.

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

21 (6) As provided in section 11 of article II of the state constitution,  
22 the state hereby covenants with the purchasers and owners of INTERCEPT  
23 bonds ~~issued by institutions~~ that it will not repeal, revoke, or rescind the  
24 provisions of this section or modify or amend this section so as to limit  
25 or impair the rights and remedies granted by this section; except that  
26 nothing in this subsection (6) shall be deemed or construed to require the  
27 state to continue the payment of state assistance to any institution or to  
28 limit or prohibit the state from repealing, amending, or modifying any law  
29 relating to the amount of state assistance to institutions or the manner of  
30 payment or the timing thereof. Nothing in this section shall be deemed or  
31 construed to create a debt of the state with respect to such INTERCEPT  
32 bonds within the meaning of any state constitutional provision or to create  
33 any other liability except to the extent provided in this section.

34 (7) Whenever the state treasurer is required by this section to  
35 make a payment of principal of or interest on INTERCEPT bonds ~~or other~~  
36 ~~obligations~~ on behalf of an institution, the department of higher education  
37 shall initiate an audit of the institution to determine the reason for the  
38 nonpayment and to assist the institution, if necessary, in developing and  
39 implementing measures to ensure that future payments will be made when  
40 they are due.

1 (8) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
2 REQUIRES:

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

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

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

18 (d) "INTERCEPT PROGRAM" MEANS THE PROGRAM SET FORTH IN  
19 THIS SECTION.

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

22 Strike pages 4 through 11.

23 Page 12, strike lines 1 through 3.

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