

**NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.**

# An Act

SENATE BILL 12-150

BY SENATOR(S) Schwartz, Bacon, Renfroe;  
also REPRESENTATIVE(S) Sonnenberg, Brown, Vigil, Barker, Pabon,  
Pace, Scott.

CONCERNING THE STATE TREASURER'S AUTHORITY TO MANAGE STATE  
PUBLIC FINANCING, AND, IN CONNECTION THEREWITH, REDUCING AN  
APPROPRIATION.

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

**SECTION 1.** In Colorado Revised Statutes, **add** 24-36-121 as follows:

**24-36-121. Authority to manage state public financing - state public financing cash fund - rules - legislative declaration - definitions.**

(1) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(a) THE STATE'S PUBLIC FINANCING MATTERS ARE CURRENTLY DECENTRALIZED. MANY STATE AGENCIES INCUR FINANCIAL OBLIGATIONS AND DIRECTLY OR INDIRECTLY PLEDGE OR USE THE CREDIT OF THE STATE WITHOUT CENTRALIZED MANAGEMENT.

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

(b) CENTRALIZED MANAGEMENT COULD HAVE A POSITIVE IMPACT ON THE STATE'S CREDIT RATING BECAUSE CREDIT RATING AGENCIES WOULD HAVE A CENTRALIZED POINT OF CONTACT WITH THE STATE FOR STATE PUBLIC FINANCING MATTERS;

(c) THE ISSUANCE AND INCURRENCE OF FINANCIAL OBLIGATIONS AND THE STATE'S OUTSTANDING FINANCIAL OBLIGATIONS SHOULD BE MANAGED AS A WHOLE, BY PERSONNEL WITH FINANCIAL EXPERIENCE AND SECURITIES MARKET UNDERSTANDING, SO THAT THE ISSUANCE AND INCURRENCE OF STATE FINANCIAL OBLIGATIONS AND THE STATE'S OUTSTANDING FINANCIAL OBLIGATIONS CAN BE MANAGED AS EFFICIENTLY AND COST EFFECTIVELY AS POSSIBLE, ALLOWING THE STATE TO MAXIMIZE REFINANCING OPPORTUNITIES;

(d) CENTRALIZED MANAGEMENT PROVIDES A BETTER METHOD OF ENSURING THAT FEDERAL TAX AND SECURITIES LAW POST-ISSUANCE COMPLIANCE REQUIREMENTS FOR STATE FINANCIAL OBLIGATIONS ARE MET BY THE STATE;

(e) DUE TO CHANGES IN THE PUBLIC SECURITIES MARKET, INCREASED REGULATORY REQUIREMENTS, EVOLVING CREDIT CRITERIA, RECENT TECHNOLOGICAL DEVELOPMENTS, RECENT DOWNGRADING OF CERTAIN GOVERNMENT CREDIT RATINGS, AND THE BENEFITS SET FORTH IN THIS SUBSECTION (1), IT IS NECESSARY TO DESIGNATE THE STATE TREASURER AS A CENTRALIZED MANAGER FOR THE ISSUANCE AND INCURRENCE OF FINANCIAL OBLIGATIONS BY THE STATE ACTING BY AND THROUGH A STATE AGENCY;

(f) IT IS ALSO IMPORTANT THAT THE STATE TREASURER DEVELOP AND PROMULGATE A STATE PUBLIC FINANCING POLICY AND, IN SO DOING, COLLABORATE WITH VARIOUS EXPERTS, INCLUDING BUT NOT LIMITED TO THE STATE CONTROLLER, THE OFFICE OF STATE PLANNING AND BUDGETING, BOND COUNSEL, AND THE ATTORNEY GENERAL. SUCH A POLICY DEMONSTRATES A COMMITMENT TO LONG-TERM FINANCIAL PLANNING, IDENTIFIES POLICY GOALS, PROVIDES FOR APPROPRIATE FINANCING STRUCTURES, AND IMPROVES THE QUALITY OF DECISION-MAKING. FURTHERMORE, CREDIT RATING AGENCIES, THE FEDERAL INTERNAL REVENUE SERVICE, AND THE FEDERAL SECURITIES AND EXCHANGE COMMISSION VIEW THE EXISTENCE OF STATE PUBLIC FINANCING POLICIES FAVORABLY.

(g) SENATE BILL 12-150, ENACTED IN 2012, IS NOT INTENDED TO

GRANT THE STATE TREASURER ANY AUTHORITY THAT SUPERSEDES A STATE AGENCY'S AUTHORITY TO ENTER INTO OR INCUR A FINANCIAL OBLIGATION, NOR IS SENATE BILL 12-150 INTENDED TO AFFECT OTHER STATE LAWS REGARDING THE GENERAL ASSEMBLY'S APPROVAL OF ANY CAPITAL LEASE OR LEASE-PURCHASE AGREEMENT OVER FIVE HUNDRED THOUSAND DOLLARS.

(2) NOTHING IN THIS SECTION AUTHORIZES THE STATE TREASURER OR ANY OTHER PUBLIC AGENCY TO WAIVE AN ELECTION OTHERWISE REQUIRED UNDER SECTION 20 OF ARTICLE X OR ARTICLE XI OF THE STATE CONSTITUTION OR TO HOLD AN ELECTION INCONSISTENT WITH THE ELECTION REQUIREMENTS OF SAID SECTION 20 OF ARTICLE X. REFERENCES TO FINANCIAL OBLIGATIONS, DEBT, OR BONDS IN THIS SECTION ARE FOR REFERENCE ONLY AND SHALL NOT BE CONSTRUED TO CREATE DEBT OR A MULTIPLE FISCAL-YEAR FINANCIAL OBLIGATION CONTRARY TO SECTION 20 OF ARTICLE X OR ARTICLE XI OF THE STATE CONSTITUTION.

(3) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) (I) "FINANCIAL OBLIGATION" MEANS ANY FINANCIAL CONTRACT, NOTE, WARRANT, BOND, CERTIFICATE, INSTRUMENT, DEBENTURE, OR OTHER SECURITY, THE PRINCIPAL AMOUNT OF WHICH IS ONE MILLION DOLLARS OR MORE, THAT IS AUTHORIZED TO BE ISSUED OR ENTERED INTO BY THE STATE ACTING BY AND THROUGH A STATE AGENCY UNDER THE LAWS OF THIS STATE, THAT IS FULLY OR PARTIALLY SECURED BY ANY STATE REVENUES, AND THAT IS DIRECTLY OR INDIRECTLY RELATED TO THE STATE'S CREDIT RATING. "FINANCIAL OBLIGATION" INCLUDES, BUT IS NOT LIMITED TO:

(A) ANY CAPITAL LEASE OR LEASE-PURCHASE AGREEMENT THE PRINCIPAL AMOUNT OF WHICH IS ONE MILLION DOLLARS OR MORE AUTHORIZED PURSUANT TO SECTION 24-82-102 AND PART 8 OF ARTICLE 82 OF THIS TITLE; AND

(B) ANY PAYMENT OBLIGATION CONSTITUTING A PORTION OF OR RELATED TO AN ENERGY PERFORMANCE CONTRACT AS DEFINED IN SECTION 24-30-2001 (1) OR A CAPITAL PROJECT FINANCED THROUGH A UTILITY COST-SAVINGS CONTRACT AUTHORIZED BY SECTION 24-38.5-106.

(II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH (a), FOR PURPOSES OF THE DEPARTMENT OF TRANSPORTATION, "FINANCIAL

OBLIGATION" DOES NOT INCLUDE:

(A) ANY FINANCIAL CONTRACT, NOTE, WARRANT, BOND, CERTIFICATE, INSTRUMENT, DEBENTURE, OR OTHER CONTRACT, AGREEMENT, OR SECURITY THAT IS AUTHORIZED TO BE ISSUED OR ENTERED INTO BY OR IN SUPPORT OF SUCH OBLIGATIONS OF THE HIGH-PERFORMANCE TRANSPORTATION ENTERPRISE CREATED IN SECTION 43-4-806 (2), C.R.S.; AND

(B) ANY FINANCIAL CONTRACT, NOTE, WARRANT, BOND, CERTIFICATE, INSTRUMENT, DEBENTURE, OR OTHER CONTRACT, AGREEMENT, OR SECURITY THAT IS AUTHORIZED TO BE ISSUED OR ENTERED INTO BY OR IN SUPPORT OF SUCH OBLIGATIONS OF THE STATEWIDE BRIDGE ENTERPRISE CREATED IN SECTION 43-4-805 (2), C.R.S.

(b) "INTERNAL REVENUE CODE" MEANS THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND ANY REGULATIONS THEREUNDER.

(c) (I) "STATE AGENCY" MEANS A DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVISION, INSTITUTION, QUASI-GOVERNMENTAL ENTITY, OR OTHER AGENCY OR INSTRUMENTALITY OF THE STATE, INCLUDING A STATE INSTITUTION OF HIGHER EDUCATION. "STATE AGENCY" ALSO INCLUDES AN ENTERPRISE, AS DEFINED IN SECTION 24-77-102 (3), A NONPROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THIS STATE AND CREATED SOLELY FOR THE PURPOSE OF ISSUING FINANCIAL OBLIGATIONS ON BEHALF OF THE STATE ACTING BY AND THROUGH A STATE AGENCY, AND A TRUST THAT MAY BE FORMED BY THE STATE OR A STATE AGENCY TO IMPLEMENT CAPITAL LEASE OR LEASE-PURCHASE FINANCING.

(II) "STATE AGENCY" DOES NOT INCLUDE:

(A) A COUNTY OR CITY AND COUNTY;

(B) A MUNICIPALITY;

(C) A SCHOOL DISTRICT;

(D) A CHARTER SCHOOL;

(E) A WATER CONSERVANCY DISTRICT;

(F) COLLEGEINVEST AS DESCRIBED IN SECTION 23-3.1-205.5, C.R.S.;

(G) A DISTRICT OR AUTHORITY ORGANIZED OR ACTING PURSUANT TO THE PROVISIONS OF TITLE 29, 30, 31, OR 32, C.R.S.;

(H) A SPECIAL PURPOSE AUTHORITY LISTED IN SECTION 24-77-102 (15) (b); OR

(I) ANY OTHER POLITICAL SUBDIVISION OF THE STATE OR OTHER ENTITY THAT CONSTITUTES A LOCAL PUBLIC BODY AS DEFINED IN SECTION 24-6-402 (1) (a).

(d) "STATE INSTITUTION OF HIGHER EDUCATION" HAS THE SAME MEANING AS SET FORTH IN SECTION 23-18-102 (10), C.R.S. FOR PURPOSES OF THIS SECTION, "STATE INSTITUTION OF HIGHER EDUCATION" ALSO INCLUDES THE AURARIA HIGHER EDUCATION CENTER ESTABLISHED IN ARTICLE 70 OF TITLE 23, C.R.S.

(e) "STATE REVENUES" MEANS ALL INCOME OF THE STATE THAT IS RECEIVED INTO THE STATE TREASURY FROM TAXES, FEES, AND OTHER SOURCES AND APPROPRIATED FOR THE PAYMENT OF THE STATE'S EXPENSES.

(4) (a) (I) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY AND EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), FOR THE 2012-13 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR THEREAFTER, WHEN A STATE AGENCY OBTAINS THE REQUIRED APPROVAL FOR THE FINANCING OF A CAPITAL PROJECT AS SPECIFIED IN LAW, THE STATE TREASURER SHALL ACT AS THE ISSUING MANAGER, SUBJECT TO THE CRITERIA ESTABLISHED IN THE STATE PUBLIC FINANCING POLICY PROMULGATED AS SPECIFIED IN SUBSECTION (5) OF THIS SECTION, FOR ALL APPROVED FINANCIAL OBLIGATIONS OF THE STATE ACTING BY AND THROUGH A STATE AGENCY. THE STATE TREASURER HAS THE SOLE DISCRETION TO MANAGE THE ISSUANCE OR INCURRENCE OF FINANCIAL OBLIGATIONS OF THE STATE ACTING BY AND THROUGH A STATE AGENCY, INCLUDING ALL POST-ISSUANCE COMPLIANCE WITH FEDERAL AND STATE TAX AND SECURITIES LAWS, SUCH AS ARBITRAGE, REBATE, AND REMEDIAL ACTION REQUIREMENTS. THE STATE TREASURER'S DUTIES WITH RESPECT TO THE MANAGEMENT OF THE ISSUANCE OR INCURRENCE OF FINANCIAL OBLIGATIONS INCLUDE, BUT ARE NOT LIMITED

TO, THE FOLLOWING:

(A) DETERMINING THE FINANCING STRUCTURE AND TERM;

(B) DECIDING THE MARKET TIMING;

(C) SELECTING OR HIRING, AS APPLICABLE, THE STATE FINANCING TEAM, INCLUDING, WHERE APPROPRIATE, THE LESSOR, PURCHASER, UNDERWRITER, BOND OR DISCLOSURE COUNSEL, TRUSTEE, ESCROW AGENT, PAYING AGENT, CREDIT ENHANCER, RATING AGENCY, PLACEMENT AGENT, LIQUIDITY PROVIDER, CREDIT SUPPORT PROVIDER, INTEREST RATE EXCHANGE AGREEMENT COUNTERPARTY, AND FINANCIAL ADVISOR;

(D) DETERMINING THE ADVISABILITY OF A STATE AGENCY ENTERING INTO AN INTEREST RATE EXCHANGE AGREEMENT PURSUANT TO ARTICLE 59.3 OF TITLE 11, C.R.S.; AND

(E) DETERMINING WHETHER TO ENTER INTO COMPETITIVE OR NEGOTIATED SALES OF FINANCIAL OBLIGATIONS.

(II) FOR A STATE INSTITUTION OF HIGHER EDUCATION, FOR THE 2012-13 STATE FISCAL YEAR AND EACH STATE FISCAL YEAR THEREAFTER, THE STATE TREASURER SHALL ACT AS THE ISSUING MANAGER, SUBJECT TO THE CRITERIA ESTABLISHED IN THE STATE PUBLIC FINANCING POLICY PROMULGATED AS SPECIFIED IN SUBSECTION (5) OF THIS SECTION, FOR ANY LEASE-PURCHASE AGREEMENT SIMILAR TO THOSE AUTHORIZED IN SECTION 23-1-106.3, C.R.S., AND ANY FINANCIAL CONTRACT, NOTE, WARRANT, BOND, CERTIFICATE, INSTRUMENT, DEBENTURE, OR OTHER SECURITY, THE PRINCIPAL AMOUNT OF WHICH IS ONE MILLION DOLLARS OR MORE, THAT IS AUTHORIZED UNDER THE LAWS OF THIS STATE TO BE ISSUED OR ENTERED INTO BY THE STATE ACTING BY AND THROUGH A STATE AGENCY OTHER THAN A STATE INSTITUTION OF HIGHER EDUCATION AND THAT FINANCES IMPROVEMENTS THAT BENEFIT A STATE INSTITUTION OF HIGHER EDUCATION. THE STATE TREASURER HAS THE SOLE DISCRETION TO MANAGE THE ISSUANCE OR INCURRENCE OF SUCH FINANCIAL OBLIGATIONS FOR A STATE INSTITUTION OF HIGHER EDUCATION AND SHALL MANAGE THE ISSUANCE OR INCURRENCE OF SUCH FINANCIAL OBLIGATIONS IN ACCORDANCE WITH THE DUTIES SET FORTH IN SUB-SUBPARAGRAPHS (A) TO (E) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a). THE STATE TREASURER SHALL NOT ACT AS THE ISSUING MANAGER FOR ANY BONDS SUBJECT TO THE HIGHER EDUCATION

REVENUE BOND INTERCEPT PROGRAM ESTABLISHED IN SECTION 23-5-139,  
C.R.S.

(b) (I) (A) NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE ON WHICH A STATE AGENCY EXPECTS THAT A FINANCIAL OBLIGATION OF THE STATE ACTING BY AND THROUGH THE STATE AGENCY WILL BE INCURRED, A STATE AGENCY SHALL PROVIDE WRITTEN NOTICE TO THE STATE TREASURER OF THAT EXPECTATION.

(B) NOT LESS THAN THIRTY DAYS PRIOR TO THE DATE ON WHICH A STATE AGENCY EXPECTS THAT A REFINANCING OF A FINANCIAL OBLIGATION OF THE STATE ACTING BY AND THROUGH THE STATE AGENCY WILL BE INCURRED, A STATE AGENCY SHALL PROVIDE WRITTEN NOTICE TO THE STATE TREASURER OF THAT EXPECTATION.

(II) THE STATE AGENCY SHALL PROVIDE THE STATE TREASURER WITH THE INFORMATION THAT THE STATE TREASURER CONSIDERS NECESSARY TO ACT AS THE ISSUING MANAGER FOR THE ISSUANCE OR INCURRENCE OF THE FINANCIAL OBLIGATION, INCLUDING, IF NECESSARY, ASSUMPTIONS OF UNDERLYING CASH FLOW PROJECTIONS ASSOCIATED WITH THE REPAYMENT OF THE FINANCIAL OBLIGATION. THE STATE AGENCY SHALL PROVIDE THE STATE TREASURER WITH THE INFORMATION THAT THE STATE TREASURER CONSIDERS NECESSARY TO COMPLY WITH FEDERAL AND STATE TAX AND SECURITIES LAWS AND CONTRACTUAL COVENANTS.

(c) IN PERFORMING HIS OR HER DUTIES AS THE ISSUING MANAGER, THE STATE TREASURER SHALL CONSIDER ANY RELEVANT FACTORS THAT THE STATE TREASURER CONSIDERS NECESSARY TO PROTECT THE FINANCIAL INTEGRITY OF THE STATE.

(d) THE STATE TREASURER IS THE ELECTED REPRESENTATIVE FOR THE PURPOSE OF APPROVING THE ISSUANCE OR INCURRENCE OF FINANCIAL OBLIGATIONS BY THE STATE ACTING BY AND THROUGH A STATE AGENCY WHEN SUCH APPROVAL IS REQUIRED UNDER THE INTERNAL REVENUE CODE AND IS THE REQUIRED SIGNATORY ON ALL FORMS REQUIRED BY THE FEDERAL INTERNAL REVENUE SERVICE TO BE FILED IN CONNECTION WITH THE ISSUANCE OR INCURRENCE OF FINANCIAL OBLIGATIONS BY THE STATE ACTING BY AND THROUGH A STATE AGENCY.

(5) NO LATER THAN NINETY DAYS AFTER THE EFFECTIVE DATE OF

THIS SECTION, THE STATE TREASURER SHALL PROMULGATE BY RULE, IN ACCORDANCE WITH ARTICLE 4 OF THIS TITLE, A STATE PUBLIC FINANCING POLICY, AND, IN SO DOING, SHALL COLLABORATE WITH VARIOUS EXPERTS, INCLUDING BUT NOT LIMITED TO THE STATE CONTROLLER, THE OFFICE OF STATE PLANNING AND BUDGETING, BOND COUNSEL, AND THE ATTORNEY GENERAL. THE STATE TREASURER SHALL PRESENT THE STATE PUBLIC FINANCING POLICY TO THE CAPITAL DEVELOPMENT COMMITTEE AT THE EARLIEST MEETING OF THE CAPITAL DEVELOPMENT COMMITTEE AT WHICH TIME IS AVAILABLE IN THE MEETING SCHEDULE AFTER THE POLICY IS FINALIZED AND SHALL PROVIDE A COPY OF THE FINAL STATE PUBLIC FINANCING POLICY TO THE JOINT BUDGET COMMITTEE. THE STATE TREASURER SHALL NOTIFY THE CAPITAL DEVELOPMENT COMMITTEE AND THE JOINT BUDGET COMMITTEE, IN WRITING, OF ANY SUBSTANTIVE CHANGES THAT ARE SUBSEQUENTLY MADE TO THE STATE PUBLIC FINANCING POLICY. FOR PURPOSES OF THIS SUBSECTION (5), THE ATTORNEY GENERAL IS THE LEGAL ADVISOR TO THE STATE TREASURER. THE STATE PUBLIC FINANCING POLICY SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, THE FOLLOWING COMPONENTS:

- (a) THE USE OF MORAL OBLIGATION PLEDGES;
- (b) THE CRITERIA FOR THE ISSUANCE OR INCURRENCE OF FINANCIAL OBLIGATIONS BY THE STATE ACTING BY AND THROUGH A STATE AGENCY;
- (c) THE USE OF DERIVATIVES;
- (d) THE USE OF VARIABLE RATE FINANCIAL OBLIGATIONS;
- (e) CREDIT OBJECTIVES;
- (f) THE STRUCTURING PRACTICES FOR EACH TYPE OF FINANCIAL OBLIGATION, INCLUDING, BUT NOT LIMITED TO, INFORMATION ABOUT THE TERM, MATURITY, AND TYPE OF INTEREST;
- (g) ACCEPTABLE METHODS OF SALE;
- (h) POLICIES FOR DETERMINING WHEN SELECTION OF EXTERNAL FINANCIAL PROFESSIONALS IS APPROPRIATE;
- (i) POLICIES RELATED TO THE REFUNDING OF FINANCIAL



OBLIGATIONS;

(j) POLICIES RELATED TO PRIMARY AND CONTINUING DISCLOSURE REQUIREMENTS FOR FINANCIAL OBLIGATIONS;

(k) POLICIES RELATED TO POST-ISSUANCE COMPLIANCE WITH FEDERAL AND STATE TAX AND SECURITIES LAWS, INCLUDING ARBITRAGE, REBATE, AND REMEDIAL ACTION REQUIREMENTS; AND

(l) POLICIES FOR INVESTMENT OF PROCEEDS WHERE NOT OTHERWISE COVERED BY LAW.

(6) (a) NO LATER THAN TEN DAYS AFTER A STATE INSTITUTION OF HIGHER EDUCATION ENTERS INTO OR ISSUES A FINANCIAL OBLIGATION IN A PRINCIPAL AMOUNT OF ONE MILLION DOLLARS OR MORE THAT IS SECURED IN WHOLE OR IN PART BY STATE REVENUES OR REVENUES OF THE INSTITUTION AND THAT THE STATE TREASURER DOES NOT MANAGE PURSUANT TO SUBSECTION (4) OF THIS SECTION, INCLUDING ANY BONDS SUBJECT TO THE HIGHER EDUCATION REVENUE BOND INTERCEPT PROGRAM ESTABLISHED IN SECTION 23-5-139, C.R.S., THE STATE INSTITUTION OF HIGHER EDUCATION SHALL NOTIFY THE STATE TREASURER THAT IT HAS ENTERED INTO THE FINANCIAL OBLIGATION. THE NOTIFICATION SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

(I) A COPY OF ANY OFFICIAL STATEMENT OR OTHER OFFERING DOCUMENT FOR THE ISSUANCE OR INCURRENCE OF THE FINANCIAL OBLIGATION;

(II) A COPY OF ANY FILINGS OR CORRESPONDENCE WITH THE FEDERAL INTERNAL REVENUE SERVICE WITH RESPECT TO THE ISSUANCE OR INCURRENCE, INCLUDING, IF APPLICABLE, A COPY OF EACH FORM 8038 OR FORM 8038G;

(III) A COPY OF THE CONTINUING DISCLOSURE UNDERTAKING; AND

(IV) ANY OTHER INFORMATION THAT IS DESCRIBED IN THE STATE PUBLIC FINANCING POLICY PROMULGATED PURSUANT TO SUBSECTION (5) OF THIS SECTION RELATED TO THE ISSUANCE OR INCURRENCE.

(b) NO LATER THAN TEN DAYS AFTER THE HIGH-PERFORMANCE

TRANSPORTATION ENTERPRISE CREATED IN SECTION 43-4-806 (2), C.R.S., OR THE STATEWIDE BRIDGE ENTERPRISE CREATED IN SECTION 43-4-805 (2), C.R.S., ENTERS INTO THE FINANCIAL CONTRACTS OR INSTRUMENTS SPECIFIED IN SUB-SUBPARAGRAPHS (A) AND (B) OF SUBPARAGRAPH (II) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION, THE ENTERPRISES SHALL NOTIFY THE STATE TREASURER THAT THEY HAVE ENTERED INTO OR ISSUED SUCH A FINANCIAL CONTRACT OR INSTRUMENT. THE NOTIFICATION SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION:

(I) A COPY OF ANY OFFICIAL STATEMENT OR OTHER OFFERING DOCUMENT FOR THE ISSUANCE OR INCURRENCE OF SUCH A FINANCIAL CONTRACT OR INSTRUMENT;

(II) A COPY OF ANY FILINGS OR CORRESPONDENCE WITH THE FEDERAL INTERNAL REVENUE SERVICE WITH RESPECT TO THE ISSUANCE OR INCURRENCE, INCLUDING, IF APPLICABLE, A COPY OF EACH FORM 8038 OR FORM 8038G;

(III) A COPY OF THE CONTINUING DISCLOSURE UNDERTAKING; AND

(IV) ANY OTHER INFORMATION THAT IS DESCRIBED IN THE STATE PUBLIC FINANCING POLICY PROMULGATED PURSUANT TO SUBSECTION (5) OF THIS SECTION RELATED TO THE ISSUANCE OR INCURRENCE.

(7) (a) ON AND AFTER JULY 1, 2012, THE ISSUANCE OR INCURRENCE OF EVERY FINANCIAL OBLIGATION BY THE STATE ACTING BY AND THROUGH A STATE AGENCY THAT THE STATE TREASURER MANAGES PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL INCLUDE, TO THE EXTENT ALLOWED BY THE INTERNAL REVENUE CODE, AN AMOUNT DETERMINED BY THE STATE TREASURER NOT TO EXCEED THE LESSER OF ONE HUNDRED THOUSAND DOLLARS OR TWO PERCENT OF THE PRINCIPAL PROCEEDS OF THE ISSUANCE OR INCURRENCE TO BE PAID TO THE STATE TREASURER. THE STATE TREASURER SHALL CREDIT THE MONEYS TO THE STATE PUBLIC FINANCING CASH FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF MONEYS DEPOSITED IN THE FUND PURSUANT TO THIS PARAGRAPH (a) AND SHALL BE USED SOLELY FOR THE PURPOSES DESCRIBED IN PARAGRAPH (b) OF THIS SUBSECTION (7). THE MONEYS IN THE FUND ARE CONTINUOUSLY APPROPRIATED TO THE STATE TREASURER. ALL UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AND ALL INTEREST AND INCOME EARNED ON THE DEPOSIT AND INVESTMENT OF MONEYS IN THE

FUND SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF A FISCAL YEAR.

(b) TO THE EXTENT PERMITTED BY BOND COUNSEL, THE MONEYS IN THE STATE PUBLIC FINANCING CASH FUND SHALL BE USED TO REIMBURSE THE STATE TREASURER FOR VERIFIABLE COSTS INCURRED IN PERFORMING OR OVERSEEING THE STATE'S PRIMARY ISSUANCE COMPLIANCE AND POST-ISSUANCE COMPLIANCE RESPONSIBILITIES OVER THE TERM OF A FINANCIAL OBLIGATION, INCLUDING COMPLYING WITH OR MONITORING COMPLIANCE WITH THE REQUIREMENTS OF THE INTERNAL REVENUE CODE, MAKING PUBLIC DISCLOSURES OR CONTINUING DISCLOSURE UNDERTAKINGS REQUIRED PURSUANT TO FEDERAL SECURITIES LAWS OR ENSURING THAT SUCH DISCLOSURES ARE MADE, AND PERFORMING OR COORDINATING REQUIREMENTS IN CONNECTION WITH THE FINANCIAL OBLIGATION.

(8) NO LATER THAN NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE STATE TREASURER SHALL CREATE AND MAINTAIN A CORRECT AND CURRENT INVENTORY OF ALL STATE-OWNED REAL PROPERTY DESCRIBED IN SECTION 24-30-1303.5 THAT IS LEASED PROPERTY OR COLLATERAL IN ANY TYPE OF FINANCIAL OBLIGATION. THE STATE TREASURER SHALL ANNUALLY PROVIDE A COPY OF THE INVENTORY TO THE CAPITAL DEVELOPMENT COMMITTEE.

**SECTION 2.** In Colorado Revised Statutes, 11-59.3-103, **add** (10) as follows:

**11-59.3-103. Interest rate exchange agreements.** (10) ANY STATE AGENCY, AS DEFINED IN SECTION 24-36-121 (3) (c), C.R.S., SHALL NOTIFY THE STATE TREASURER WHEN IT ENTERS INTO AN AGREEMENT FOR AN EXCHANGE OF INTEREST RATES, CASH FLOWS, OR PAYMENTS AS PROVIDED IN THIS SECTION.

**SECTION 3.** In Colorado Revised Statutes, 22-30.5-408, **add** (2) (d) as follows:

**22-30.5-408. Replenishment of qualified charter school debt service reserve funds - additional responsibilities - state treasurer - qualified charter schools - definitions.** (2) (d) UPON THE EXPENDITURE OF MONEYS FROM THE STATE CHARTER SCHOOL DEBT RESERVE FUND OR THE STATE CHARTER SCHOOL INTEREST SAVINGS ACCOUNT OF THE FUND BY THE

STATE TREASURER, A QUALIFIED CHARTER SCHOOL SHALL PROVIDE THE STATE TREASURER WITH AT LEAST THE FOLLOWING INFORMATION:

(I) A COPY OF ANY OFFICIAL STATEMENT OR OTHER OFFERING DOCUMENT FOR THE ISSUANCE OR INCURRENCE OF THE FINANCIAL OBLIGATION OF THE QUALIFIED CHARTER SCHOOL;

(II) A COPY OF ANY FILINGS OR CORRESPONDENCE WITH THE FEDERAL INTERNAL REVENUE SERVICE WITH RESPECT TO THE ISSUANCE OR INCURRENCE, INCLUDING, IF APPLICABLE, A COPY OF EACH FORM 8038 OR FORM 8038G;

(III) A COPY OF THE CONTINUING DISCLOSURE UNDERTAKING; AND

(IV) ANY OTHER INFORMATION THAT IS DESCRIBED IN THE STATE PUBLIC FINANCING POLICY PROMULGATED PURSUANT TO SECTION 24-36-121 (5), C.R.S., RELATED TO THE ISSUANCE OR INCURRENCE.

**SECTION 4. Appropriation - adjustments in 2012 long bill.** For the implementation of this act, the general fund appropriation made in the annual general appropriation act to the department of personnel for the fiscal year beginning July 1, 2012, for the division of accounts and control - controller, office of the state controller, is decreased by \$42,961 and 0.5 FTE.

**SECTION 5. Safety clause.** The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

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Brandon C. Shaffer  
PRESIDENT OF  
THE SENATE

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Frank McNulty  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

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Marilyn Eddins  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

APPROVED \_\_\_\_\_

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John W. Hickenlooper  
GOVERNOR OF THE STATE OF COLORADO