

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-1029.01 Nicole Myers x4326

HOUSE BILL 22-1385

HOUSE SPONSORSHIP

Titone, Herod, Kennedy, Lindsay, McCluskie, Michaelson Jenet, Ricks, Valdez D.

SENATE SPONSORSHIP

Hansen,

House Committees

Business Affairs & Labor
Finance
Appropriations

Senate Committees

Finance
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE IMPLEMENTATION OF THE COLORADO OPERATIONS**
102 **RESOURCE ENGINE UPGRADE PROJECT.**

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://leg.colorado.gov>.)

The bill authorizes the state to enter into one or more financed purchase of an asset or certificate of participation agreements for the implementation costs of the Colorado operations resource engine upgrade and continuous improvement project.

The bill also requires the office of information technology (office) to ensure that the Colorado operations resource engine system includes

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

SENATE
3rd Reading Unamended
May 9, 2022

SENATE
2nd Reading Unamended
May 6, 2022

HOUSE
3rd Reading Unamended
May 2, 2022

HOUSE
Amended 2nd Reading
April 29, 2022

any functionality that the legislative branch deems to be of particular importance or promptly explain why such functionality cannot be incorporated. The office must also report to the joint technology committee and the joint budget committee regarding its progress on the project in a format and at time intervals specified by the joint technology committee and the joint budget committee in writing.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The department of personnel, in accordance with section
5 24-30-202 (12), operates a statewide accounting, procurement, and
6 budget system, which is a core function of state government that needs to
7 be supportable, stable, and secure;

8 (b) The existing system is ten years old and in need of updates and
9 upgrades for the anticipated needs of the next ten-year cycle of the
10 system; and

11 (c) The treasurer's office has determined that the capital costs of
12 the project can be financed at a lower capital cost through a privately
13 placed capital financed purchase of an asset or certificate of participation
14 agreement.

15 (2) It is therefore in the best interest of the citizens of Colorado to
16 authorize the state, acting by and through the state treasurer, to enter into
17 one or more financed purchase of an asset or certificate of participation
18 agreements and other agreements as necessary to finance the
19 implementation costs of the Colorado operations resource engine upgrade
20 and continuous improvement project.

21 **SECTION 2. Financed purchase of an asset or certificate of**
22 **participation agreement.** (1) (a) The state of Colorado, acting by and

1 through the state treasurer, is authorized to execute one or more financed
2 purchase of an asset or certificate of participation agreements to
3 finance the implementation costs of the Colorado operations resource
4 engine upgrade and continuous improvement project in an amount up
5 to nine million seven hundred eighty-seven thousand dollars (\$9,787,000)
6 plus reasonable and necessary administrative, monitoring, and closing
7 costs and interest, including capitalized interest and credit enhancement
8 costs such as a debt service reserve fund or bond insurance.

9 (b) The anticipated annual state-funded payments for the principal
10 and interest components of the amount payable under the financed
11 purchase of an asset or certificate of participation agreement entered into
12 pursuant to subsection (1)(a) of this section shall not exceed one million
13 six hundred thousand dollars.

14 (c) The enactment of this act satisfies the requirements of section
15 24-82-801, Colorado Revised Statutes.

16 (d) The state, acting by and through the state treasurer, at the state
17 treasurer's sole discretion, may enter into the financed purchase of an
18 asset or certificate of participation agreement authorized by subsection
19 (1)(a) of this section with any for-profit or nonprofit corporation, trust, or
20 commercial bank as a trustee as the lessor.

21 (2) (a) The financed purchase of an asset or certificate of
22 participation agreement authorized in subsection (1) of this section must
23 provide that all of the obligations of the state under the agreement are
24 subject to the action of the general assembly in annually making money
25 available for all payments thereunder. Payments under any financed
26 purchase of an asset or certificate of participation agreement must be
27 made subject to annual appropriation by the general assembly, as

1 applicable, from the general fund or from any other legally available
2 source of money. The agreement must also provide that the obligations
3 shall not be deemed or construed as creating an indebtedness of the state
4 within the meaning of any provision of the state constitution or the laws
5 of the state concerning or limiting the creation of indebtedness by the
6 state and do not constitute a multiple fiscal year direct or indirect debt or
7 other financial obligation of the state within the meaning of section 20 (4)
8 of article X of the state constitution. If the state does not renew the
9 financed purchase of an asset or certificate of participation agreement
10 authorized in subsection (1) of this section, the sole security available to
11 the lessor shall be the property that is the subject of the financed purchase
12 of an asset or certificate of participation agreement.

13 (b) (I) The financed purchase of an asset or certificate of
14 participation agreement authorized in subsection (1) of this section may
15 contain such terms, provisions, and conditions as the state treasurer,
16 acting on behalf of the state, may deem appropriate, including all optional
17 terms; except that the financed purchase of an asset or certificate of
18 participation agreement shall specifically authorize the state to:

19 (A) Receive all personal property that is the subject of the
20 financed purchase of an asset or certificate of participation agreement on
21 or prior to the expiration of the terms of the financed purchase of an asset
22 or certificate of participation agreement; and

23 (B) Reduce the term of the lease through prepayment of rental and
24 other payments.

25 (II) Any personal property received under the financed purchase
26 of an asset or certificate of participation agreement by the state on or prior
27 to the expiration of the terms of the agreement shall be held for the

1 benefit and use of the state.

2 (III) A financed purchase of an asset or certificate of participation
3 agreement may further provide for the issuance, distribution, and sale of
4 instruments evidencing rights to receive rentals and other payments made
5 and to be made under the agreement. The instruments may be issued,
6 distributed, or sold only by the lessor or any person designated by the
7 lessor and not by the state. The instruments do not create a relationship
8 between the purchasers of the instruments and the state or create any
9 obligation on the part of the state to the purchasers. Such instruments
10 shall not be notes, bonds, or any other evidence of indebtedness of the
11 state within the meaning of any provision of the state constitution or the
12 laws of the state concerning or limiting the creation of indebtedness of the
13 state and such instruments are not multiple fiscal-year direct or indirect
14 debt or other financial obligations of the state within the meaning of
15 section 20 (4) of article X of the state constitution.

16 (c) The state, acting through the state treasurer with the consent
17 of the chief information officer of the governor's office of information
18 technology, is authorized to enter into ancillary agreements and
19 instruments as are deemed necessary or appropriate in connection with
20 the financed purchase of an asset or certificate of participation agreement.

21 (d) Interest paid under a financed purchase of an asset or
22 certificate of participation agreement authorized pursuant to subsection
23 (1)(a) of this section, including interest represented by the instruments, is
24 exempt from Colorado income tax.

25 (3) The provisions of section 24-30-202 (5)(b), Colorado Revised
26 Statutes, do not apply to the financed purchase of an asset or certificate
27 of participation agreement authorized in subsection (1) of this section or

1 any ancillary agreement entered into pursuant to subsection (2)(c) of this
2 section. Any provision of the fiscal rules promulgated pursuant to section
3 24-30-202 (1) and (13), Colorado Revised Statutes, that the state
4 controller deems to be incompatible or inapplicable with respect to said
5 financed purchase of an asset or certificate of participation agreements or
6 any ancillary agreement may be waived by the controller or the
7 controller's designee.

8 **SECTION 3.** In Colorado Revised Statutes, **add** 24-37.5-123 as
9 follows:

10 **24-37.5-123. Colorado operations resource engine upgrade**
11 **and continuous improvement project - reporting.** IF THE EXECUTIVE
12 COMMITTEE OF THE LEGISLATIVE COUNCIL, THE JOINT BUDGET
13 COMMITTEE, THE JOINT TECHNOLOGY COMMITTEE, OR THE LEGISLATIVE
14 AUDIT COMMITTEE DEEM CERTAIN FUNCTIONALITY OF THE COLORADO
15 FINANCIAL REPORTING SYSTEM TO BE OF PARTICULAR IMPORTANCE TO THE
16 LEGISLATIVE BRANCH, THIS WILL BE CONVEYED IN WRITING TO THE OFFICE,
17 THE DEPARTMENT OF PERSONNEL, AND THE GOVERNOR. THE OFFICE AND
18 THE DEPARTMENT OF PERSONNEL MUST ENSURE THAT SUCH
19 FUNCTIONALITY IS INCORPORATED OR MUST PROMPTLY EXPLAIN WHY
20 SUCH FUNCTIONALITY CANNOT BE INCORPORATED. IF THE FUNCTIONALITY
21 CANNOT BE INCLUDED BECAUSE SUCH A CHANGE WOULD REQUIRE
22 ADDITIONAL APPROPRIATIONS, THE OFFICE AND THE DEPARTMENT OF
23 PERSONNEL MUST EXPLAIN WHY ADDITIONAL APPROPRIATIONS ARE
24 NECESSARY. THE OFFICE AND THE DEPARTMENT OF PERSONNEL MUST
25 REPORT TO THE JOINT TECHNOLOGY COMMITTEE AND THE JOINT BUDGET
26 COMMITTEE REGARDING ITS PROGRESS ON THE PROJECT IN A FORMAT AND
27 AT TIME INTERVALS SPECIFIED BY THE JOINT TECHNOLOGY COMMITTEE

1 AND THE JOINT BUDGET COMMITTEE IN WRITING. IF A MEETING IS
2 NECESSARY FOR ANY REPORT REQUIRED BY THIS SECTION, WHEN POSSIBLE,
3 THE MEETING MAY BE A JOINT MEETING OF THE JOINT TECHNOLOGY
4 COMMITTEE AND THE JOINT BUDGET COMMITTEE.

5 **SECTION 4. Safety clause.** The general assembly hereby finds,
6 determines, and declares that this act is necessary for the immediate
7 preservation of the public peace, health, and safety.