

## CHAPTER 268

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**GOVERNMENT - STATE**

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**HOUSE BILL 22-1385**

BY REPRESENTATIVE(S) Titone, Herod, Kennedy, Lindsay, McCluskie, Michaelson Jenet, Ricks, Valdez D.;  
also SENATOR(S) Hansen.

**AN ACT****CONCERNING THE IMPLEMENTATION OF THE COLORADO OPERATIONS RESOURCE ENGINE UPGRADE PROJECT.**

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

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

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

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

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

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

**SECTION 2. Financed purchase of an asset or certificate of participation agreement.** (1) (a) The state of Colorado, acting by and through the state treasurer, is authorized to execute one or more financed purchase of an asset or certificate of participation agreements to finance the implementation costs of the Colorado

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

operations resource engine upgrade and continuous improvement project in an amount up to nine million seven hundred eighty-seven thousand dollars (\$9,787,000) plus reasonable and necessary administrative, monitoring, and closing costs and interest, including capitalized interest and credit enhancement costs such as a debt service reserve fund or bond insurance.

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

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

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

(2)(a) The financed purchase of an asset or certificate of participation agreement authorized in subsection (1) of this section must provide that all of the obligations of the state under the agreement are subject to the action of the general assembly in annually making money available for all payments thereunder. Payments under any financed purchase of an asset or certificate of participation agreement must be made subject to annual appropriation by the general assembly, as applicable, from the general fund or from any other legally available source of money. The agreement must also provide that the obligations shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state and do not constitute a multiple fiscal year direct or indirect debt or other financial obligation of the state within the meaning of section 20 (4) of article X of the state constitution. If the state does not renew the financed purchase of an asset or certificate of participation agreement authorized in subsection (1) of this section, the sole security available to the lessor shall be the property that is the subject of the financed purchase of an asset or certificate of participation agreement.

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

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

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

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

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

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

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

(3) The provisions of section 24-30-202 (5)(b), Colorado Revised Statutes, do not apply to the financed purchase of an asset or certificate of participation agreement authorized in subsection (1) of this section or any ancillary agreement entered into pursuant to subsection (2)(c) of this section. Any provision of the fiscal rules promulgated pursuant to section 24-30-202 (1) and (13), Colorado Revised Statutes, that the state controller deems to be incompatible or inapplicable with respect to said financed purchase of an asset or certificate of participation agreements or any ancillary agreement may be waived by the controller or the controller's designee.

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

**24-37.5-123. Colorado operations resource engine upgrade and continuous improvement project - reporting.** IF THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, THE JOINT BUDGET COMMITTEE, THE JOINT TECHNOLOGY COMMITTEE, OR THE LEGISLATIVE AUDIT COMMITTEE DEEM CERTAIN FUNCTIONALITY OF THE COLORADO FINANCIAL REPORTING SYSTEM TO BE OF PARTICULAR IMPORTANCE TO THE LEGISLATIVE BRANCH, THIS WILL BE CONVEYED IN WRITING TO THE OFFICE, THE DEPARTMENT OF PERSONNEL, AND THE GOVERNOR. THE OFFICE AND THE DEPARTMENT OF PERSONNEL MUST ENSURE THAT SUCH FUNCTIONALITY IS INCORPORATED OR MUST PROMPTLY EXPLAIN WHY SUCH FUNCTIONALITY CANNOT BE INCORPORATED. IF THE FUNCTIONALITY CANNOT BE INCLUDED BECAUSE SUCH A CHANGE WOULD REQUIRE ADDITIONAL APPROPRIATIONS, THE OFFICE AND THE DEPARTMENT OF PERSONNEL MUST EXPLAIN WHY ADDITIONAL APPROPRIATIONS ARE

NECESSARY. THE OFFICE AND THE DEPARTMENT OF PERSONNEL MUST 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. IF A MEETING IS NECESSARY FOR ANY REPORT REQUIRED BY THIS SECTION, WHEN POSSIBLE, THE MEETING MAY BE A JOINT MEETING OF THE JOINT TECHNOLOGY COMMITTEE AND THE JOINT BUDGET COMMITTEE.

**SECTION 4. 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.

Approved: May 27, 2022