

Second Regular Session  
Seventy-third General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0706.01 Nicole Myers x4326

SENATE BILL 22-191

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SENATE SPONSORSHIP

Bridges and Priola,

HOUSE SPONSORSHIP

Titone and Bernett,

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Senate Committees

Business, Labor, & Technology

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE PROCUREMENT OF INFORMATION TECHNOLOGY  
102 RESOURCES.

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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/>.)*

**Joint Technology Committee.** Current law states that the office of information technology (office) may initiate the procurement of information technology (IT) resources for state agencies and participate in other activities related to IT procurement on behalf of a state agency. The bill requires the office to initiate the procurement of IT resources and requires the office to participate in other IT procurement-related activities

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.

on behalf of a state agency; except that a state agency may initiate solicitations and contracts for IT resources with prior approval of the office.

The bill specifies that the money in the existing technology risk prevention and response fund (fund) is continuously appropriated to the office for the purposes of the fund. The bill allows the office to contribute money to the fund from the operations and maintenance fees associated with the billing practices of the office.

The bill requires any money appropriated from the general fund to the office or a state agency for the procurement of IT resources or projects that is unexpended or unencumbered at the end of a fiscal year as a result of savings achieved in connection with such procurement to be transferred to the fund.

For every appropriation in the information technology capital section and the operating agency budget section of the annual general appropriation act for the 2023-24 state fiscal year and each state fiscal year thereafter, the bill requires the general assembly to set aside additional funding for annual depreciation-lease equivalent payments.

In addition, the bill specifies that a contract for the licensing of software applications that are designed to run on generally available desktop or server hardware cannot limit a governmental body's ability to install or run the software on the hardware of the governmental body's choosing.

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

2           **SECTION 1.** In Colorado Revised Statutes, 24-37.5-105, **amend**  
3 (6) introductory portion as follows:

4           **24-37.5-105. Office - roles - responsibilities - state search**  
5 **interface - rules - legislative declaration - definitions. (6) Technology**  
6 **purchasing for enterprises.** The office ~~may~~ SHALL initiate the  
7 procurement of information technology resources for state agencies and  
8 enter into agreements or contracts on behalf of a state agency, multiple  
9 agencies, or the office, or be a party to procurement contracts that are  
10 initiated by state agencies. ~~State agency initiated contracts must be done~~  
11 ~~in consultation with~~ A STATE AGENCY MAY INITIATE SOLICITATIONS AND  
12 CONTRACTS FOR INFORMATION TECHNOLOGY RESOURCES ONLY WITH

1 PRIOR APPROVAL OF THE PROCUREMENT OFFICIAL FOR the office, and must  
2 include provisions allowing the office to enforce technology and security  
3 standards or conduct due diligence or audits of the contractors. In  
4 connection with the procurement of information technology resources, the  
5 office shall:

6 **SECTION 2.** In Colorado Revised Statutes, 24-37.5-120, **amend**  
7 (2), (4)(a), and (4)(c)(III) introductory portion; and **add** (4)(d) and (6) as  
8 follows:

9 **24-37.5-120. Technology risk prevention and response fund -**  
10 **creation - definitions.** (2) The technology risk prevention and response  
11 fund is hereby created in the state treasury. The fund consists of money  
12 that the general assembly may appropriate or transfer to the fund, MONEY  
13 CONTRIBUTED TO THE FUND BY THE OFFICE PURSUANT TO SUBSECTION  
14 (4)(d) OF THIS SECTION, AND MONEY TRANSFERRED TO THE FUND  
15 PURSUANT TO SUBSECTION (6) OF THIS SECTION.

16 (4) (a) ~~Up to fifty percent of the total balance of the fund at the~~  
17 ~~beginning of each fiscal year is continuously appropriated to the office.~~  
18 THE MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE OFFICE  
19 TO BE USED FOR THE PURPOSES SPECIFIED IN SUBSECTIONS (4)(b) AND  
20 (4)(c) OF THIS SECTION.

21 (c) The office shall use the money in the fund for one-time costs  
22 associated with:

23 (III) Preventing risk from information technology ~~debt~~ that is:

24 (d) THE OFFICE MAY CONTRIBUTE MONEY TO THE FUND FROM THE  
25 OPERATIONS AND MAINTENANCE FEES ASSOCIATED WITH THE BILLING  
26 PRACTICES OF THE OFFICE.

27 (6) (a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE

1 CONTRARY, FOR THE 2022-23 STATE FISCAL YEAR AND FOR EACH STATE  
2 FISCAL YEAR THEREAFTER, ANY MONEY APPROPRIATED FROM THE  
3 GENERAL FUND TO THE OFFICE OR A STATE AGENCY FOR THE  
4 PROCUREMENT OF INFORMATION TECHNOLOGY RESOURCES OR PROJECTS  
5 THAT IS UNEXPENDED OR UNENCUMBERED AT THE END OF THE FISCAL  
6 YEAR AS A RESULT OF SAVINGS ACHIEVED IN CONNECTION WITH SUCH  
7 PROCUREMENT, SHALL NOT REVERT TO THE GENERAL FUND.

8 (b) ON JULY 1, 2023, AND ON JULY 1 OF EACH YEAR THEREAFTER,  
9 THE STATE TREASURER SHALL TRANSFER FROM THE GENERAL FUND TO THE  
10 TECHNOLOGY RISK PREVENTION AND RESPONSE FUND AN AMOUNT EQUAL  
11 TO THE AMOUNT OF UNEXPENDED AND UNENCUMBERED MONEY  
12 DESCRIBED IN SUBSECTION (6)(a) OF THIS SECTION.

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

15 **24-37.5-123. Annual depreciation-lease equivalent payments**  
16 **- definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT  
17 OTHERWISE REQUIRES:

18 (a) "ANNUAL DEPRECIATION-LEASE EQUIVALENT PAYMENT"  
19 MEANS AN AMOUNT EQUIVALENT TO THE RECORDED DEPRECIATION OR  
20 AMORTIZATION OF THE INFORMATION TECHNOLOGY ASSET ACQUIRED,  
21 REPAIRED, IMPROVED, REPLACED, RENOVATED, OR CONSTRUCTED WITH AN  
22 APPROPRIATION FROM THE INFORMATION TECHNOLOGY CAPITAL ACCOUNT  
23 IN THE CAPITAL CONSTRUCTION FUND, INFORMATION TECHNOLOGY  
24 REVOLVING FUND CREATED IN SECTION 24-37.5-103 (3)(a), OR ANY OTHER  
25 APPROPRIATION MADE FROM THE GENERAL FUND THAT IS SPECIFICALLY  
26 FOR INFORMATION TECHNOLOGY RESOURCES, BASED ON THE  
27 DEPRECIATION OR AMORTIZATION PERIOD, AS CALCULATED BY THE OFFICE.

1 THE AMOUNT IS CALCULATED AND IS SET AT ONE-QUARTER OF ONE  
2 PERCENT OF THE NET BOOK VALUE AMOUNT OF THE INFORMATION  
3 TECHNOLOGY CAPITAL ASSET. THE AMOUNT CONTINUES TO BE ANNUALLY  
4 CALCULATED ON A FISCAL YEAR BASIS UNTIL THE NET BOOK VALUE OF THE  
5 INFORMATION TECHNOLOGY CAPITAL ASSET IS ZERO.

6 (b) "APPROPRIATION" MEANS AN APPROPRIATION MADE TO A  
7 STATE AGENCY AS DEFINED IN SECTION 24-37.5-102 (28) FOR THE  
8 PURCHASE, ACQUISITION, USE, OR CONSUMPTION OF INFORMATION  
9 TECHNOLOGY RESOURCES IN THE ANNUAL GENERAL APPROPRIATION ACT,  
10 INCLUDING APPROPRIATIONS FOR INFORMATION TECHNOLOGY PROJECTS,  
11 AND INCLUDING ANY APPROPRIATIONS MADE FROM THE INFORMATION  
12 TECHNOLOGY CAPITAL ACCOUNT IN THE CAPITAL CONSTRUCTION FUND  
13 CREATED IN SECTION 24-75-302 (3.7).

14 (c) "DEPRECIATION OR AMORTIZATION" MEANS AN AMOUNT  
15 CALCULATED AND RECORDED IN ACCORDANCE WITH GENERALLY  
16 ACCEPTED ACCOUNTING PRINCIPLES.

17 (d) "DEPRECIATION OR AMORTIZATION PERIOD" MEANS A PERIOD  
18 DETERMINED IN FISCAL PROCEDURES ISSUED BY THE STATE CONTROLLER.

19 (e) "TECHNOLOGY RISK PREVENTION AND RESPONSE FUND" MEANS  
20 THE TECHNOLOGY RISK PREVENTION AND RESPONSE FUND CREATED IN  
21 SECTION 24-37.5-120 (2).

22 (2) (a) FOR THE 2023-24 STATE FISCAL YEAR AND FOR EACH STATE  
23 FISCAL YEAR THEREAFTER, THE OFFICE SHALL ANNUALLY CALCULATE AN  
24 AMOUNT FOR REFRESH AND REPLACEMENT OF INFORMATION TECHNOLOGY  
25 CAPITAL ASSETS IN THE AMOUNT OF ONE-QUARTER OF ONE PERCENT OF  
26 THE NET BOOK VALUE AMOUNT OF INFORMATION TECHNOLOGY CAPITAL  
27 ASSETS. THE GENERAL ASSEMBLY SHALL INCLUDE THE CALCULATED

1 AMOUNT IN AN ANNUAL DEPRECIATION-LEASE EQUIVALENT PAYMENT LINE  
2 ITEM PAYABLE FROM THE GENERAL FUND IN THE ANNUAL GENERAL  
3 APPROPRIATION ACT FOR THE OFFICE.

4 (b) ON JUNE 30, 2024, AND ON EACH JUNE 30 THEREAFTER, THE  
5 STATE CONTROLLER SHALL CREDIT THE AMOUNT CREDITED TO THE  
6 ANNUAL DEPRECIATION-LEASE EQUIVALENT PAYMENT LINE ITEM TO THE  
7 TECHNOLOGY RISK PREVENTION AND RESPONSE FUND.

8 (3) ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (3),  
9 THE GENERAL ASSEMBLY SHALL INCLUDE IN ANY APPROPRIATION FOR AN  
10 INFORMATION TECHNOLOGY CAPITAL BUDGET REQUEST AN AMOUNT  
11 EQUAL TO TEN PERCENT OF THE TOTAL COST OF THE ASSET TO BE USED FOR  
12 FUTURE REPLACEMENT OF THE ASSET.

13 (4) ON JUNE 15, 2023, AND ON EACH JUNE 15 THEREAFTER, THE  
14 OFFICE SHALL SUBMIT A FISCAL IMPACT ANALYSIS TO THE OFFICE OF STATE  
15 PLANNING AND BUDGETING THAT MUST INCLUDE BUT IS NOT LIMITED TO  
16 THE FOLLOWING:

17 (a) THE ESTIMATED AMOUNT OF GENERAL FUND MONEY REQUIRED  
18 TO MAKE THE ANNUAL DEPRECIATION-LEASE EQUIVALENT PAYMENTS FOR  
19 INFORMATION TECHNOLOGY FOR THE UPCOMING FISCAL YEAR;

20 (b) A FINANCIAL SUMMARY AND BALANCE OF THE TECHNOLOGY  
21 RISK PREVENTION AND RESPONSE FUND; AND

22 (c) THE CURRENT INFORMATION TECHNOLOGY ASSETS TO WHICH  
23 THE ANNUAL DEPRECIATION-LEASE EQUIVALENT PAYMENTS PERCENTAGE  
24 IS BEING APPLIED.

25 **SECTION 4.** In Colorado Revised Statutes, **add** 24-102-208 as  
26 follows:

27 **24-102-208. Software application contracts - generally**

1     **available hardware - no limitation.** A CONTRACT FOR THE LICENSING OF  
2     SOFTWARE APPLICATIONS THAT ARE DESIGNED TO RUN ON GENERALLY  
3     AVAILABLE DESKTOP OR SERVER HARDWARE SHALL NOT LIMIT A  
4     GOVERNMENTAL BODY'S ABILITY TO INSTALL OR RUN THE SOFTWARE ON  
5     THE HARDWARE OF THE GOVERNMENTAL BODY'S CHOOSING. THIS SECTION  
6     APPLIES TO ANY CONTRACT OR ADDENDUM FOR THE LICENSING OF  
7     SOFTWARE APPLICATIONS ON OR AFTER THE EFFECTIVE DATE OF THIS  
8     SECTION.

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