

## CHAPTER 107

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**GOVERNMENT - STATE**

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**SENATE BILL 10-148**

BY SENATOR(S) White, Keller, Tapia;  
also REPRESENTATIVE(S) Lambert, Ferrandino, Pommer, Nikkel, Stephens, Waller.

**AN ACT**

**CONCERNING THE TRANSFER OF THE ENTERPRISE FACILITY FOR OPERATIONAL RECOVERY, READINESS, RESPONSE, AND TRANSITION SERVICES FROM THE DEPARTMENT OF STATE TO THE OFFICE OF INFORMATION TECHNOLOGY IN THE OFFICE OF THE GOVERNOR, AND, IN CONNECTION THEREWITH, DEVELOPING A TIMELINE TO TRANSFER FUNDING OF THE FACILITY FROM THE DEPARTMENT OF STATE CASH FUND TO THE COMPUTER SERVICES REVOLVING FUND OVER A PERIOD OF FOUR YEARS.**

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

**SECTION 1.** 24-37.5-102, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

**24-37.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(1.5) "DISASTER RECOVERY" MEANS THE PROVISIONING OF SERVICES FOR OPERATIONAL RECOVERY, READINESS, RESPONSE, AND TRANSITION OF INFORMATION TECHNOLOGY APPLICATIONS, SYSTEMS, OR RESOURCES.

(1.7) "ENTERPRISE FACILITY" MEANS AN ENTERPRISE FACILITY FOR PROVIDING INFORMATION TECHNOLOGY SERVICES.

(2.5) "LOCAL GOVERNMENT" MEANS THE GOVERNMENT OF ANY COUNTY, CITY AND COUNTY, HOME RULE OR STATUTORY CITY, TOWN, SPECIAL DISTRICT, OR SCHOOL DISTRICT.

**SECTION 2.** 24-37.5-104, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

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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.*

**24-37.5-104. Transfer of functions - change of name - continuity of existence - legislative declaration - rules.** (7) (a) THERE IS HEREBY CREATED IN THE OFFICE THE ENTERPRISE FACILITY FOR OPERATIONAL RECOVERY, READINESS, RESPONSE, AND TRANSITION SERVICES.

(b) ON JULY 1, 2010, THE ENTERPRISE FACILITY FOR OPERATIONAL RECOVERY, READINESS, RESPONSE, AND TRANSITION SERVICES WITHIN THE DEPARTMENT OF STATE, IN COORDINATION WITH PARTICIPATING STATE AGENCIES, IS TRANSFERRED TO THE OFFICE.

(c) (I) ON AND AFTER JULY 1, 2010, ALL POSITIONS OF EMPLOYMENT IN THE ENTERPRISE FACILITY AS IT EXISTED WITHIN THE DEPARTMENT OF STATE CONCERNING THE POWERS, DUTIES, AND FUNCTIONS TRANSFERRED TO THE OFFICE PURSUANT TO THIS SUBSECTION (7) THAT ARE DEEMED NECESSARY TO CARRY OUT THE PURPOSES OF THIS ARTICLE BY THE CHIEF INFORMATION OFFICER SHALL BE TRANSFERRED TO THE OFFICE AND SHALL BECOME EMPLOYMENT POSITIONS THEREIN. THE CHIEF INFORMATION OFFICER SHALL APPOINT SUCH EMPLOYEES AS ARE NECESSARY TO CARRY OUT THE DUTIES AND EXERCISE THE POWERS CONFERRED BY LAW UPON THE OFFICE AND THE CHIEF INFORMATION OFFICER.

(II) ON AND AFTER JULY 1, 2010, ALL EMPLOYEES OF THE ENTERPRISE FACILITY AS IT EXISTED WITHIN THE DEPARTMENT OF STATE WHOSE DUTIES AND FUNCTIONS CONCERNED THE POWERS, DUTIES, AND FUNCTIONS TRANSFERRED TO THE OFFICE PURSUANT TO THIS SUBSECTION (7) SHALL BE CONSIDERED EMPLOYEES OF THE OFFICE FOR PURPOSES OF SECTION 24-50-124, REGARDLESS OF WHETHER THE POSITION OF EMPLOYMENT IN WHICH THE EMPLOYEE SERVED WAS TRANSFERRED TO THE OFFICE. ANY SUCH EMPLOYEES WHO ARE CLASSIFIED EMPLOYEES IN THE STATE PERSONNEL SYSTEM SHALL RETAIN ALL RIGHTS TO THE PERSONNEL SYSTEM AND RETIREMENT BENEFITS PURSUANT TO THE LAWS OF THE STATE, AND THEIR SERVICE SHALL BE DEEMED TO HAVE BEEN CONTINUOUS. ALL TRANSFERS AND ANY ABOLISHMENT OF POSITIONS IN THE STATE PERSONNEL SYSTEM SHALL BE MADE AND PROCESSED IN ACCORDANCE WITH STATE PERSONNEL SYSTEM LAWS AND RULES.

(d) ON JULY 1, 2010, ALL ITEMS OF PROPERTY, REAL AND PERSONAL, INCLUDING OFFICE FURNITURE AND FIXTURES, BOOKS, DOCUMENTS, AND RECORDS OF THE ENTERPRISE FACILITY AS IT EXISTED WITHIN THE DEPARTMENT OF STATE PERTAINING TO THE DUTIES AND FUNCTIONS TRANSFERRED TO THE OFFICE PURSUANT TO THIS SUBSECTION (7) ARE TRANSFERRED TO THE OFFICE AND SHALL BECOME THE PROPERTY THEREOF.

(e) ON AND AFTER JULY 1, 2010, WHENEVER THE ENTERPRISE FACILITY FOR OPERATIONAL RECOVERY, READINESS, RESPONSE, AND TRANSITION SERVICES WITHIN THE DEPARTMENT OF STATE, IN COORDINATION WITH PARTICIPATING STATE AGENCIES, IS REFERRED TO OR DESIGNATED BY A CONTRACT OR OTHER DOCUMENT IN CONNECTION WITH THE DUTIES AND FUNCTIONS TRANSFERRED TO THE OFFICE PURSUANT TO THIS SUBSECTION (7), SUCH REFERENCE OR DESIGNATION SHALL BE DEEMED TO APPLY TO THE OFFICE CREATED PURSUANT TO THIS ARTICLE. ALL CONTRACTS ENTERED INTO BY THE ENTERPRISE FACILITY AS IT EXISTED WITHIN THE DEPARTMENT OF STATE PRIOR TO JULY 1, 2010, IN CONNECTION WITH THE DUTIES AND FUNCTIONS TRANSFERRED TO THE OFFICE PURSUANT TO THIS SUBSECTION (7) ARE HEREBY VALIDATED, WITH THE OFFICE SUCCEEDING TO ALL RIGHTS AND

OBLIGATIONS OF THE CONTRACTS. ANY APPROPRIATIONS OF MONEYS FROM PRIOR FISCAL YEARS OPEN TO SATISFY OBLIGATIONS INCURRED PURSUANT TO THE CONTRACTS ARE HEREBY TRANSFERRED AND APPROPRIATED TO THE OFFICE FOR THE PAYMENT OF SUCH OBLIGATIONS.

(f) ON AND AFTER JULY 1, 2010, UNLESS OTHERWISE SPECIFIED, WHENEVER ANY PROVISION OF LAW REFERS TO THE DEPARTMENT OF STATE IN CONNECTION WITH THE ENTERPRISE FACILITY, THE LAW SHALL BE CONSTRUED AS REFERRING TO THE OFFICE.

(g) ALL RULES AND ORDERS OF THE DEPARTMENT OF STATE OR THE OFFICE OF THE GOVERNOR IN CONNECTION WITH THE POWERS, DUTIES, AND FUNCTIONS TRANSFERRED TO THE OFFICE PURSUANT TO THIS SUBSECTION (7) SHALL CONTINUE TO BE EFFECTIVE UNTIL REVISED, AMENDED, REPEALED, OR NULLIFIED PURSUANT TO LAW. ON AND AFTER JULY 1, 2010, THE CHIEF INFORMATION OFFICER SHALL ADOPT RULES NECESSARY FOR THE ADMINISTRATION OF SUCH POWERS, DUTIES, AND FUNCTIONS.

(h) ON AND AFTER JULY 1, 2010, THE ENTERPRISE FACILITY SHALL BE FUNDED AS FOLLOWS:

(I) FOR STATE FISCAL YEAR 2010-11, ONE HUNDRED PERCENT BY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY FROM THE DEPARTMENT OF STATE CASH FUND CREATED IN SECTION 24-21-104 (3) (b);

(II) FOR STATE FISCAL YEAR 2011-12, SIXTY-SEVEN PERCENT BY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY FROM THE DEPARTMENT OF STATE CASH FUND CREATED IN SECTION 24-21-104 (3) (b) AND THIRTY-THREE PERCENT BY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY FROM THE COMPUTER SERVICES REVOLVING FUND CREATED IN SECTION 24-37.5-604 (2);

(III) FOR STATE FISCAL YEAR 2012-13, THIRTY-THREE PERCENT BY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY FROM THE DEPARTMENT OF STATE CASH FUND CREATED IN SECTION 24-21-104 (3) (b) AND SIXTY-SEVEN PERCENT BY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY FROM THE COMPUTER SERVICES REVOLVING FUND CREATED IN SECTION 24-37.5-604 (2); AND

(IV) FOR STATE FISCAL YEAR 2013-14 AND FOR EACH STATE FISCAL YEAR THEREAFTER, ONE HUNDRED PERCENT BY MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY FROM THE COMPUTER SERVICES REVOLVING FUND CREATED IN SECTION 24-37.5-604 (2).

**SECTION 3.** 24-37.5-106, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**24-37.5-106. Chief information officer - duties and responsibilities - broadband inventory fund created.** (1.7) THE CHIEF INFORMATION OFFICER MAY ENTER INTO CONTRACTS WITH ANY LOCAL GOVERNMENT, STATE AGENCY, OR POLITICAL SUBDIVISION OF THE STATE, INCLUDING THE LEGISLATIVE AND JUDICIAL DEPARTMENTS, THE DEPARTMENT OF LAW, THE DEPARTMENT OF STATE, THE DEPARTMENT OF TREASURY, OR STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION FOR THE PURPOSE OF PROVIDING DISASTER RECOVERY SERVICES.

**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: April 15, 2010