

CHAPTER 108

GOVERNMENT - STATE

SENATE BILL 13-190

BY SENATOR(S) Steadman, Hodge, Lambert, Guzman, Newell, Todd, Morse;
also REPRESENTATIVE(S) Gerou, Duran, Levy, Fischer, Ginal, Labuda, Rosenthal, Vigil, Young.

AN ACT

**CONCERNING THE IMPLEMENTATION OF THE COLORADO FINANCIAL REPORTING SYSTEM
MODERNIZATION PROJECT.**

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

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) Operating a statewide accounting system is a core function of state government that needs to be supportable, stable, and secure;

(b) The existing system is twenty years old and is at the end of its useful, practical life cycle. The system is also highly customized and very few personnel are trained in maintaining, repairing, and updating it.

(c) House Bill 12-1335, the annual general appropriation act, appropriated over eight million six hundred thousand dollars (\$8,600,000) from various funding sources of state agencies and the same amount of re-appropriated funds in the governor's office of information technology to begin the modernization. Underlying those appropriations was a ten-year level payment funding plan that included payments in addition to the annual operating cost for eight years after the July 1, 2014, "go-live" date for the system. The level funding plan included an assumption that the system implementation costs, which are expected to occur primarily in the 2012-13 and 2013-14 state fiscal years, be financed in some manner.

(d) The treasurer's office has determined the capital costs of the project can be financed at a lower capital cost through a privately placed capital lease-purchase agreement.

(2) It is therefore in the best interest of the citizens of Colorado to authorize the

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

state of Colorado, acting by and through the state treasurer, to enter into one or more lease-purchase agreements and other agreements as necessary to finance the implementation costs of the Colorado financial reporting system modernization project.

SECTION 2. Lease-purchase agreement. (1)(a) The state of Colorado, acting by and through the state treasurer, is authorized to execute one or more lease-purchase agreements for up to nine years to finance the implementation costs of the Colorado financial reporting system modernization project. The total amount of the principal component of said lease-purchase agreement, including reasonable and necessary closing costs, shall not exceed thirty-three million dollars (\$33,000,000).

(b) Enactment of this act shall satisfy the requirements of section 24-82-801, Colorado Revised Statutes.

(2)(a) The lease-purchase agreement authorized in subsection (1) of this section shall provide that all of the obligations of the state under the agreement shall be subject to the action of the general assembly in annually making moneys available for all payments thereunder. The agreement shall 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 of Colorado concerning or limiting the creation of indebtedness by the state of Colorado and shall 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. In the event the state of Colorado does not renew the lease-purchase 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 lease-purchase agreement.

(b)(I) The lease-purchase 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 of Colorado, may deem appropriate, including all optional terms; except that the lease-purchase agreement shall specifically authorize the state of Colorado to:

(A) Receive all personal property that is the subject of the lease-purchase agreement on or prior to the expiration of the terms of the lease-purchase agreement; and

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

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

(III) Such lease-purchase agreements 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. 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.

(c) The state of Colorado, 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 lease-purchase agreements.

(3) The provisions of section 24-30-202 (5) (b), Colorado Revised Statutes, shall not apply to the lease-purchase agreement authorized in subsection (1) of this section or any ancillary agreement entered into pursuant to paragraph (c) of subsection (2) 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 lease-purchase agreements or any ancillary agreement may be waived by the controller or his or her designee.

SECTION 3. In Colorado Revised Statutes, **add 24-37.5-114** as follows:

24-37.5-114. Colorado financial reporting system modernization project - reporting. IN THE EVENT THAT THE EXECUTIVE COMMITTEE OF THE LEGISLATIVE COUNCIL, THE JOINT BUDGET 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 AND THE GOVERNOR. THE OFFICE 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 MUST EXPLAIN WHY ADDITIONAL APPROPRIATIONS ARE NECESSARY. THE OFFICE MUST REPORT TO THE JOINT BUDGET COMMITTEE AND THE CAPITAL DEVELOPMENT COMMITTEE REGARDING ITS PROGRESS ON THE PROJECT IN A FORMAT AND AT TIME INTERVALS SPECIFIED BY THE JOINT BUDGET COMMITTEE AND THE CAPITAL DEVELOPMENT 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 BUDGET COMMITTEE AND THE CAPITAL DEVELOPMENT 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: April 4, 2013