

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 11-0324.01 Gregg Fraser

SENATE BILL 11-062

SENATE SPONSORSHIP

Cadman,

HOUSE SPONSORSHIP

Murray,

Senate Committees
Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ADMINISTRATIVE DUTIES OF THE OFFICE OF**
102 **INFORMATION TECHNOLOGY.**

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://www.leg.state.co.us/billsummaries>.)

Sections 2 and 3 of the bill modify the responsibilities of the office of information technology (OIT) in the governor's office with respect to the dissemination of services to the web, the maintenance of information for state agencies, the execution or approval of information technology procurement, and the acquisition and management of the

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

SENATE
3rd Reading Unamended
February 14, 2011

SENATE
Amended 2nd Reading
February 10, 2011

statewide communications and information infrastructure. **Section 4** of the bill modifies the responsibilities of state agencies regarding their consultation with OIT.

Section 5 of the bill removes a statutory provision allowing the chief information officer of each state agency who was transferred to the OIT in 2008 to continue to act as the chief information officer for the state agency from which he or she was transferred and a provision relating to the supervision of the officer.

Section 6 of the bill modifies the definition of "public agency", as that term is used in provisions regarding information security, to include the department of higher education. Currently, the department of higher education is excluded from the definition.

Sections 8 and 9 of the bill modify the requirements with respect to the information security plans of specified state agencies.

Section 10 of the bill specifies who is notified in the event of a security incident.

Section 11 of the bill makes the chief information officer, rather than the executive director of the department of personnel, responsible for developing facilities standards when acting as a telecommunications network provider.

Section 12 of the bill eliminates the telecommunications revolving fund and redirects user fees for telephone and data communications services to the information technology revolving fund. This section of the bill also eliminates a requirement to establish a policy to remain competitive with private industry and bidding requirements for agencies purchasing telephone or data communications services from the private sector.

Section 15 of the bill modifies provisions relating to the charging of services provided by the general government computer center (GGCC) and also certain requirements for seeking private sector bids. The section also eliminates the computer services revolving fund and redirects user fees for GGCC services to the information technology revolving fund.

Section 16 of the bill modifies the definition of "data" as that term is used in provisions regarding interdepartmental data protocol.

The remaining sections of the bill remove outdated statutory language or make conforming changes.

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

2 **SECTION 1.** 24-37.5-104 (7) (h) (II), (7) (h) (III), and (7) (h)
3 (IV), Colorado Revised Statutes, are amended to read:

4 **24-37.5-104. Transfer of functions - change of name -**

1 **continuity of existence - legislative declaration - rules.** (7) (h) On and
2 after July 1, 2010, the enterprise facility shall be funded as follows:

3 (II) For state fiscal year 2011-12, sixty-seven percent by moneys
4 appropriated by the general assembly from the department of state cash
5 fund created in section 24-21-104 (3) (b) and thirty-three percent by
6 moneys appropriated by the general assembly from the ~~computer services~~
7 INFORMATION TECHNOLOGY revolving fund ~~created~~ ESTABLISHED in
8 ~~section 24-37.5-604 (2)~~ SECTION 24-37.5-112 (1) (a);

9 (III) For state fiscal year 2012-13, thirty-three percent by moneys
10 appropriated by the general assembly from the department of state cash
11 fund created in section 24-21-104 (3) (b) and sixty-seven percent by
12 moneys appropriated by the general assembly from the ~~computer services~~
13 INFORMATION TECHNOLOGY revolving fund ~~created~~ ESTABLISHED in
14 ~~section 24-37.5-604 (2)~~ SECTION 24-37.5-112 (1) (a); and

15 (IV) For state fiscal year 2013-14 and for each state fiscal year
16 thereafter, one hundred percent by moneys appropriated by the general
17 assembly from the ~~computer services~~ INFORMATION TECHNOLOGY
18 revolving fund ~~created~~ ESTABLISHED in ~~section 24-37.5-604 (2)~~ SECTION
19 24-37.5-112 (1) (a).

20 **SECTION 2.** 24-37.5-105 (3)(h) and (3) (i), Colorado Revised
21 Statutes, are amended to read:

22 **24-37.5-105. Office - responsibilities - rules - repeal.** (3) The
23 office shall:

24
25 (h) Oversee and supervise the maintenance of INFORMATION,
26 information technology, and the initiation of any information technology
27 updates or projects for state agencies; and

1 (i) Initiate OR APPROVE all procurements of information
2 technology resources for state agencies and enter into any agreement or
3 contract in connection with such a procurement on behalf of a state
4 agency OR AGENCIES.

5 **SECTION 3.** 24-37.5-108 (1) (a) and (1) (c), Colorado Revised
6 Statutes, are amended to read:

7 **24-37.5-108. Statewide communications and information**
8 **infrastructure - establishment - duties.** (1) With regard to the
9 statewide communications and information infrastructure, the office shall
10 have the following duties:

11 (a) To ~~review and make recommendations on requirements for~~
12 ACQUIRE AND MANAGE the statewide communications and information
13 infrastructure based on present and future user applications;

14 (c) To ~~review and make recommendations related to~~ MANAGE THE
15 ongoing use of the statewide communications and information
16 infrastructure;

17 **SECTION 4.** 24-37.5-109 (1) (a), Colorado Revised Statutes, is
18 amended to read:

19 **24-37.5-109. Status of state agencies.** (1) State agencies shall:

20 (a) Consult with and advise the office on ~~their~~ information
21 technology systems AND REQUIREMENTS;

22 **SECTION 5.** 24-37.5-110 (1) (a), Colorado Revised Statutes, is
23 amended to read:

24 **24-37.5-110. Technology coordination.** (1) (a) On July 1, 2008,
25 the chief information officer of each state agency and on or after July 1,
26 2008, but on or before July 1, 2012, the employees of such state agencies
27 designated pursuant to subsection (2) of this section shall be transferred

1 to the office and shall become employees of the office. Each officer
2 transferred to the office pursuant to this subsection (1) and his or her
3 successor may continue to act as the officer for the state agency from
4 which he or she was transferred and shall maintain any duties or
5 responsibilities related to the information technology resources of such
6 agency. Each officer transferred to the office shall report to and be under
7 the immediate supervision of the chief information officer of the office.

8 **SECTION 6.** 24-37.5-402 (9), Colorado Revised Statutes, is
9 amended to read:

10 **24-37.5-402. Definitions.** As used in this part 4, unless the
11 context otherwise requires:

12 (9) "Public agency" means every state office, whether legislative,
13 executive or judicial, and all of its respective offices, departments,
14 divisions, commissions, boards, bureaus, and institutions. "Public
15 agency" does not include institutions of higher education ~~or the~~
16 ~~department of higher education~~ OR THE GENERAL ASSEMBLY.

17 **SECTION 7.** 24-37.5-403 (2) (b) and (3), Colorado Revised
18 Statutes, are amended to read:

19 **24-37.5-403. Chief information security officer - duties and**
20 **responsibilities.** (2) The chief information security officer shall:

21 (b) Promulgate rules pursuant to article 4 of this title containing
22 information security policies, standards, and guidelines; ~~for such agencies~~
23 ~~on or before December 31, 2006;~~

24 (3) ~~For the state fiscal year commencing on July 1, 2006, the cost~~
25 ~~of the services provided by the chief information security officer to public~~
26 ~~agencies in administering this part 4 shall be paid from federal funds~~
27 ~~received by the state for such purposes.~~ It is the intent of the general

1 assembly that the cost of the services provided by the chief information
2 security officer to a public agency be adequately funded in fiscal years
3 commencing on and after July 1, 2007, through an appropriation to the
4 public agency to pay for such services.

5 **SECTION 8.** 24-37.5-404 (1), (3), (4), (5), and (6), Colorado
6 Revised Statutes, are amended to read:

7 **24-37.5-404. Public agencies - information security plans.**

8 (1) On or before July 1 ~~2007~~ OF EACH YEAR, each public agency shall
9 develop an information security plan utilizing the information security
10 policies, standards, and guidelines developed by the chief information
11 security officer. The information security plan shall provide information
12 security for the communication and information resources that support the
13 operations and assets of the public agency.

14 (3) On or before July 15 ~~2007~~ OF EACH YEAR, each public agency
15 shall submit the information security plan developed pursuant to this
16 section to the chief information security officer for approval.

17 (4) In the event that a public agency fails to submit to the chief
18 information security officer an information security plan on or before July
19 15 ~~2007~~, OF EACH YEAR or such plan is disapproved by the chief
20 information security officer, the officer shall notify the governor, THE
21 CHIEF INFORMATION OFFICER, and the head ~~and chief information officer~~
22 of the public agency of noncompliance with this section. If no plan has
23 been approved by September 15 ~~2007~~ OF EACH YEAR, the CHIEF
24 INFORMATION SECURITY officer shall be authorized to temporarily
25 discontinue or suspend the operation of a public agency's communication
26 and information resources until such plan has been submitted to or is
27 approved by the officer.

1 (5) ~~An information security plan may provide for a phase-in~~
2 ~~period not to exceed three years. An implementation schedule for the~~
3 ~~phase-in period shall be included in such a plan. Any phase-in period~~
4 ~~pursuant to this subsection (5) shall be completed by July 1, 2009.~~

5 (6) ~~On or before July 1, 2008, and on or before July 1 of each~~
6 ~~subsequent year, the executive director or head of each public agency~~
7 ~~shall report to the chief information security officer on the development,~~
8 ~~implementation, and, if applicable, compliance with the phase-in schedule~~
9 ~~of the public agency's information security plan.~~

10 **SECTION 9.** 24-37.5-404.5 (1), (2) (e), (3), (5), and (6),
11 Colorado Revised Statutes, are amended to read:

12 **24-37.5-404.5. Institutions of higher education - information**
13 **security plans.** (1) ~~On or before July 1 2007, the department of higher~~
14 ~~education and~~ OF EACH YEAR, each institution of higher education, in
15 coordination with the department OF HIGHER EDUCATION, shall develop
16 an information security plan. The information security plan shall provide
17 information security for the communication and information resources
18 that support the operations and assets of ~~the department and the institution~~
19 of higher education.

20 (2) The information security plan shall include:

21 (e) A process for detecting, reporting, and responding to security
22 incidents consistent with the information security policy of the institution
23 of higher education. The institutions of higher education, the Colorado
24 commission on higher education, and the chief information security
25 officer shall establish the terms and conditions by which the institutions
26 of higher education ~~and the department of higher education~~ shall report
27 information security incidents to the chief information security officer.

1 (3) On or before July 15 2007 OF EACH YEAR, each institution of
2 higher education shall submit the information security plan developed
3 pursuant to this section to the Colorado commission on higher education
4 for review and comment. The commission shall submit such plans to the
5 chief information security officer.

6 (5) ~~An information security plan may provide for a phase-in~~
7 ~~period not to exceed three years. An implementation schedule for the~~
8 ~~phase-in period shall be included in such a plan. Any phase-in period~~
9 ~~pursuant to this subsection (5) shall be completed by July 1, 2009.~~

10 (6) ~~On or before July 1, 2008, and on or before July 1 of each~~
11 ~~subsequent year, the executive director of the department of higher~~
12 ~~education shall report to the chief information security officer on the~~
13 ~~development, implementation, and, if applicable, compliance with the~~
14 ~~phase-in schedule of the information security plan for each institution of~~
15 ~~higher education.~~

16 **SECTION 10.** Part 4 of article 37.5 of title 24, Colorado Revised
17 **Statutes, is amended BY THE ADDITION OF A NEW SECTION to**
18 **read:**

19 **24-37.5-404.7. General assembly - information security plans.**

20 **(1) THE GENERAL ASSEMBLY SHALL DEVELOP AN INFORMATION SECURITY**
21 **PLAN. THE INFORMATION SECURITY PLAN SHALL PROVIDE INFORMATION**
22 **SECURITY FOR THE COMMUNICATION AND INFORMATION RESOURCES THAT**
23 **SUPPORT THE OPERATIONS AND ASSETS OF THE GENERAL ASSEMBLY.**

24 **(2) THE INFORMATION SECURITY PLAN SHALL INCLUDE:**

25 **(a) PERIODIC ASSESSMENTS OF THE RISK AND MAGNITUDE OF THE**
26 **HARM THAT COULD RESULT FROM A SECURITY INCIDENT;**

27 **(b) A PROCESS FOR PROVIDING ADEQUATE INFORMATION SECURITY**

1 FOR THE COMMUNICATION AND INFORMATION RESOURCES OF THE
2 GENERAL ASSEMBLY;

3 (c) INFORMATION SECURITY AWARENESS TRAINING FOR REGULAR
4 EMPLOYEES OF THE GENERAL ASSEMBLY;

5 (d) PERIODIC TESTING AND EVALUATION OF THE EFFECTIVENESS OF
6 INFORMATION SECURITY FOR THE GENERAL ASSEMBLY, WHICH SHALL BE
7 PERFORMED NOT LESS THAN ANNUALLY;

8 (e) A PROCESS FOR DETECTING, REPORTING, AND RESPONDING TO
9 SECURITY INCIDENTS CONSISTENT WITH THE INFORMATION SECURITY
10 POLICY OF THE GENERAL ASSEMBLY. THE GENERAL ASSEMBLY AND THE
11 CHIEF INFORMATION SECURITY OFFICER SHALL ESTABLISH THE TERMS AND
12 CONDITIONS BY WHICH THE GENERAL ASSEMBLY SHALL REPORT
13 INFORMATION SECURITY INCIDENTS TO THE CHIEF INFORMATION SECURITY
14 OFFICER.

15 (f) PLANS AND PROCEDURES TO ENSURE THE CONTINUITY OF
16 OPERATIONS FOR INFORMATION RESOURCES THAT SUPPORT THE
17 OPERATIONS AND ASSETS OF THE GENERAL ASSEMBLY IN THE EVENT OF A
18 SECURITY INCIDENT.

19 (3) ON OR BEFORE JULY 15 OF EACH YEAR, THE DIRECTOR OF
20 LEGISLATIVE INFORMATION SERVICES FOR THE GENERAL ASSEMBLY SHALL
21 SUBMIT THE INFORMATION SECURITY PLAN DEVELOPED PURSUANT TO THIS
22 SECTION TO THE LEGISLATIVE SERVICE AGENCY DIRECTORS OF THE
23 GENERAL ASSEMBLY FOR REVIEW AND COMMENT. THE LEGISLATIVE
24 SERVICE AGENCY DIRECTORS SHALL SUBMIT SUCH PLAN TO THE CHIEF
25 INFORMATION SECURITY OFFICER.

26 (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO REQUIRE
27 THE GENERAL ASSEMBLY TO ADOPT POLICIES OR STANDARDS THAT

1 CONFLICT WITH FEDERAL LAW, RULES, OR REGULATIONS OR WITH
2 CONTRACTUAL ARRANGEMENTS GOVERNED BY FEDERAL LAWS, RULES, OR
3 REGULATIONS.

4 (5) THE GENERAL ASSEMBLY SHALL PROVIDE REGULARIZED
5 SECURITY AWARENESS TRAINING TO INFORM THE REGULAR LEGISLATIVE
6 EMPLOYEES, ADMINISTRATORS, AND USERS ABOUT THE INFORMATION
7 SECURITY RISKS AND THE RESPONSIBILITY OF EMPLOYEES,
8 ADMINISTRATORS, AND USERS TO COMPLY WITH THE GENERAL ASSEMBLY'S
9 INFORMATION SECURITY PLAN AND THE POLICIES, STANDARDS, AND
10 PROCEDURES DESIGNED TO REDUCE THOSE RISKS.

11 **SECTION 11.** 24-37.5-405 (2), Colorado Revised Statutes, is
12 amended to read:

13 **24-37.5-405. Security incidents - authority of chief information**
14 **security officer.** (2) The chief information security officer shall be
15 authorized to temporarily discontinue or suspend the operation of a public
16 agency's communication and information resources in order to isolate the
17 source of a security incident. The officer shall give notice to the
18 governor, or the lieutenant governor in the event the governor is not
19 available, ~~and the head and~~ chief information officer, AND THE HEAD of
20 the public agency concurrent with such discontinuation or suspension of
21 operations. The officer shall ensure, to the extent possible, the continuity
22 of operations for the communication and information resources that
23 support the operations and assets of the public agency.

24 **SECTION 12.** 24-37.5-502 (3), Colorado Revised Statutes, is
25 amended to read:

26 **24-37.5-502. Duties and responsibilities.** (3) The chief
27 information officer may enter into contracts with any county, city and

1 county, state agency, private school, school district, board of cooperative
2 educational services, or library and may act as a telecommunications
3 network provider between or among two or more counties or state
4 agencies for the purpose of providing teleconferencing facilities and
5 services between or among such entities, including the judicial system of
6 any county, the department of corrections, and the department of human
7 services and any of their facilities. To assure the availability of such
8 network throughout the various state agencies, private schools, school
9 districts, boards of cooperative educational services, libraries, and
10 counties, the ~~executive director of the department of personnel~~ CHIEF
11 INFORMATION OFFICER shall develop a uniform set of standards for
12 facilities to be utilized by the contracting entities.

13 **SECTION 13.** 24-37.5-505, Colorado Revised Statutes, is
14 amended to read:

15 **24-37.5-505. Service charges - pricing policy - repeal.**

16 (1) (a) Users of the office's telephone and data communication services
17 shall be charged the full cost of the particular service, which shall include
18 the cost of all material, labor, and overhead. Said user charges shall be
19 transmitted to the state treasurer, who shall credit the same to the
20 ~~telecommunications~~ INFORMATION TECHNOLOGY revolving fund ~~which~~
21 ~~fund is hereby created. The moneys in the revolving fund are subject to~~
22 ~~annual appropriations by the general assembly to the office for use in~~
23 ~~acquiring such materials, supplies, labor, and overhead as are required for~~
24 ~~telephone and data communications related service functions~~ CREATED IN
25 SECTION 24-37.5-112. The revolving fund shall include user charges on
26 public safety radio systems of a state agency or other state entity; except
27 that no municipality, county, city and county, or special district shall be

1 charged user charges on public safety radio systems of a state agency or
2 other state entity.

3 (b) THE FUND BALANCE OF THE TELECOMMUNICATIONS
4 REVOLVING FUND EFFECTIVE THE DAY PRIOR TO THE EFFECTIVE DATE OF
5 THIS PARAGRAPH (b) SHALL BE TRANSFERRED TO THE INFORMATION
6 TECHNOLOGY REVOLVING FUND. THIS PARAGRAPH (b) IS REPEALED,
7 EFFECTIVE JULY 1, 2012.

8 (2) The chief information officer shall establish a policy of
9 remaining competitive with private industry with regard to the cost,
10 timeliness, and quality of the telephone service or data communication
11 functions provided by the office. Agencies interested in purchasing
12 services from the private sector shall work with the office to develop bid
13 specifications, which shall identify all services, requirements, and costs.
14 All bids shall be consistent with the state's long-term telecommunication
15 objectives.

16 **SECTION 14.** 24-37.5-602 (2) (b), Colorado Revised Statutes,
17 is amended to read:

18 **24-37.5-602. Functions of the GGCC.** (2) (b) ~~The chief~~
19 ~~information officer of~~ Each agency or department of state government,
20 including institutions of higher education, shall ensure compliance with
21 the policies, standards, and guidelines set forth by the office.

22 **SECTION 15.** 24-37.5-603 (1) (f), Colorado Revised Statutes, is
23 amended to read:

24 **24-37.5-603. Powers of the chief information officer - penalty**
25 **for breach of confidentiality.** (1) In order to perform the functions and
26 duties of the GGCC as set forth in this part 6, the chief information
27 officer shall exercise the following powers:

1 (f) To control the ~~computer services~~ INFORMATION TECHNOLOGY
2 revolving fund pursuant to ~~section 24-37.5-604~~ SECTION 24-37.5-112.

3 **SECTION 16.** 24-37.5-604, Colorado Revised Statutes, is
4 amended to read:

5 **24-37.5-604. Service charges - pricing - repeal.** (1) Users of
6 GGCC services shall be charged by the office the full cost of the
7 particular service, which shall include the cost of all material, labor,
8 equipment, software, services, and overhead. ~~Two months prior to NO~~
9 ~~LATER THAN~~ the November 1 submission date as required by section
10 24-37-304, the chief information officer shall establish, publish, and
11 distribute billing rates to user entities and other interested entities
12 effective for the following fiscal year. ~~The billing rates shall not be~~
13 ~~increased during the fiscal year. User charges shall be paid only out of~~
14 ~~items of appropriation made specifically for the purchase of services from~~
15 ~~either the office or from an alternative support source approved by the~~
16 ~~office. Agencies interested in purchasing services from the private sector~~
17 ~~shall work with the office to develop bid specifications, which shall~~
18 ~~identify all services, requirements, and costs. All bids shall be consistent~~
19 ~~with the state's long-term data processing objectives. The bid process~~
20 ~~shall be completed so as to coincide with the office's rate publication date.~~

21 (2) (a) User charges collected under this part 6 shall be transmitted
22 to the state treasurer, who shall credit the same to the ~~computer services~~
23 ~~INFORMATION TECHNOLOGY revolving fund which fund is hereby created.~~
24 ~~The moneys in such fund are subject to annual appropriations by the~~
25 ~~general assembly to the office for the purpose of acquiring such materials,~~
26 ~~supplies, labor, equipment, software, services, and overhead as are~~
27 ~~required by the office to supply the services purchased by users~~ CREATED

1 IN SECTION 24-37.5-112.

2 (b) THE FUND BALANCE OF THE COMPUTER SERVICES REVOLVING
3 FUND EFFECTIVE THE DAY PRIOR TO THE EFFECTIVE DATE OF THIS
4 PARAGRAPH (b) SHALL BE TRANSFERRED TO THE INFORMATION
5 TECHNOLOGY REVOLVING FUND. THIS PARAGRAPH (b) IS REPEALED,
6 EFFECTIVE JULY 1, 2012.

7 (3) The chief information officer shall establish a policy of
8 remaining competitive with the service provided by private industry with
9 regard to the cost, timeliness, and quality of that service provided by the
10 office. Agencies are encouraged to seek competitive bids from the
11 private sector pursuant to subsection (1) of this section. If the office
12 cannot meet the needs of any agency in any one of the said areas, the
13 agency may seek services elsewhere in consultation with the office.

14 **SECTION 17.** 24-37.5-702 (3), Colorado Revised Statutes, is
15 amended to read:

16 **24-37.5-702. Definitions.** As used in this part 7, unless the
17 context otherwise requires:

18 (3) "Data" means ~~unit records~~ THE REPRESENTATION OF FACTS AS
19 TEXTS, NUMBERS, GRAPHICS, IMAGES, SOUNDS, OR VIDEO. FACTS ARE
20 CAPTURED, STORED, AND EXPRESSED AS DATA.

21 **SECTION 18.** 24-72-202 (6) (b) (X), Colorado Revised Statutes,
22 is amended to read:

23 **24-72-202. Definitions.** As used in this part 2, unless the context
24 otherwise requires:

25 (6) (b) "Public records" does not include:

26 (X) The information security plan of a public agency developed
27 pursuant to section 24-37.5-404 or of the department of higher education

1 or an institution of higher education developed pursuant to section
2 24-37.5-404.5;

3 **SECTION 19. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.