



**Background Information Services, Inc.
Response
To
Public Access Committee's
Data Replication Report
Task Force Recommendations**

October 2012

REASONS OF SUPPORT FOR REPLICATED PUBLIC DATA

Colorado Public Access Committee

October 24, 2012

*Presented by Background Information Services, Inc.
A Colorado company for over twenty five years.*

1. Replicated Public Data Increases Revenues to the Colorado Judicial Department.

Even before the economic collapse of October 2008, the Colorado Judicial Department was promoting budget ideas before the Joint Budget Committee (JBC), which would allow the Judicial Department to become less dependent on the state's General Fund and to become more independent through cash funding mechanisms. The JBC and the Legislature agreed. Legislation was approved in 2008 that created the Judicial Information Technology Fund. Then in 2010, the Legislature gave approval for the Judicial Department to proceed with the in house transition of the Public Access System (PAS) and E-filing systems. With the PAS transition complete and the more complex E-file transition underway, BIS pays over \$2 million per year into the Judicial IT fund, this making BIS one of the Department's largest cash fund contributors. BIS believes that the payment of over 2 million dollars a year should give credence to allowing BIS to serve its customers in what it believes to be the best possible way. If this committee would approve replicated data, also referred to as mirrored data, State Court Administrators Office (SCAO) revenues could increase. Such new monies could then be used to help finance the Department's other IT projects that will evolve in the future.

2. Customers Want Replicated Data.

BIS is requesting your committee's approval for **Replicated Public data**. We are not asking to replicate the entire Judicial Department's court record database as represented in the Department's March Data Replication Report. As technology has evolved, so have customer preferences. Today, customers do not want to wait for computer services. They want the records reliable, up to date (real time), accurate and fast. Providing replicated data will speed up service and allow access to all approved public records. Many of the customers who have been with BIS for 15 to 20 years are frustrated by the difference in response time compared to BIS's old Replicated Public Access System, which was the speed of a typical Google search on the internet today. BIS would like to offer new products that are reflective of today's technology. All of the information that would be provided by replicated data is approved public data information available currently at any Colorado Courthouse. Colorado Judicial

Department has a long history of being a leader in providing new technology and the reimplementation of a successful replication system would be an important next step back to leading the nation in public data technology.

3. Replicated Data Has Been Successfully Used Before in Colorado.

Colorado Judicial Department allowed replicated data to be used by BIS for over six years from 2001 until 2006. The Data Replication Report March 2012 states at the bottom of page 4 and top of page 5 “However, issues continued to surface regarding court records being posted on the internet that were not updated in real-time format that was required by contract.” BIS was the only company receiving replicated data other than the Department’s agent of the State. We adhered to the contract to the fullest extent. We have never received a written or verbal complaint from SCAO. The above statement had nothing to do with the real time replicated data. Composite data released by SCAO to vendors prior to the authorization & release of replicated data was the problem. Providing replicated data in the past to BIS was a successful partnership and could be again. This is especially true with the advances in technology over the past six years.

4. Any Security Concerns Can Be Addressed.

BIS believes almost all issues, including any potential security concerns that the Public Access Committee or the Department may have, can be addressed through contract. Penalties should be imposed on those vendors that violate contract provisions. BIS and the Department have had a long, successful relationship of working together on a contract basis and the implementation of replication should be no different.

5. Only Data That Is Currently Available to the Public Would Be Replicated.

Replicated data would remain the property of the SCAO. As stated earlier, the data used in today’s Public Access System is public data and does not include confidential information. With replication, BIS is not requesting any new data, just that the current data be made available in a replicated format.

6. There Has Been, And Continues To Be, Legislative Support for Replicated Data.

In 2011, House Bill 11-1282 mandated that the Department provide Replicated data (Please see Appendix #1 to view copy of legislation). The House sponsor was the Chairman of the House Judiciary Committee and the Senate sponsor was the Chair of the Senate Judiciary Committee. HB 11-1282 passed the House Judiciary Committee 9 Yes, 0 No and the entire House of Representatives, 60 Yes, 3 No and 2 Excused respectively (Please view Appendix #2). When the bill arrived in the Senate, the Senate sponsor requested that both BIS and the Court come together and try to work out any differences

in the legislation. After several days of in-person communication with Chief Justice Bender and Justice Martinez, BIS withdrew the bill at their request with the belief, that the issue of replicated data could be addressed through their committee with a positive result, rather than a prescriptive piece of legislation.

Today, there continues to be bipartisan legislative support. Legislators like the idea wherein Departments create and sustain successful cash-funded programs and respect those that implement the best information technology available (Please see Appendix #3 to view Representative Bob Gardner letter and Appendix #4 to view Senator Morgan Carroll letter and Appendix #5 to view BIS's concerns with the Data Replication Task Force Report).

Appendix 1

HB11-1282

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

REENGROSSED

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

LLS NO. 11-0847.01 Michael Dohr

HOUSE BILL 11-1282

HOUSE SPONSORSHIP

Gardner B., Kerr J., Liston

SENATE SPONSORSHIP

Carroll,

House Committees
State, Veterans, & Military Affairs

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE JUDICIAL PUBLIC ACCESS SYSTEM.**

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>.)

The judicial department is required to provide a public access system for certain court records that direct-paying users and nonpaying users can access remotely. The judicial department may not prohibit a direct-paying user from replicating the information on its system. The bill creates the judicial public access system advisory board (board) to govern the system. The board will consist of 9 members, including 4 legislators, 1 office of information technology staff member, 2 judicial department

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.*

HOUSE
Amended 3rd Reading
April 7, 2011

HOUSE
Amended 2nd Reading
April 6, 2011

employees, and 2 vendors. The board will set the price schedule for access by direct-paying users and approve any changes to the schedule, determine what information will be available through the system and in what form it will be available, and address any other matter relevant to the system. The board will meet at least once every 6 months, announce its meeting a week in advance, and publish an agenda 48 hours in advance.

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

2 **SECTION 1. Legislative declaration.** The Colorado general
3 assembly finds and declares that transparency and accountability are
4 important public policy initiatives for all branches of government. The
5 judicial department's public access system is a vital government service
6 for both public safety and the private sector. The judicial department's
7 public access system shall provide meaningful access to the records of the
8 judicial department to the public, without imposing undue burden or cost
9 so that the public is able to monitor the conduct of the judicial branch of
10 government. The integrity of the system is vital for the state of Colorado,
11 so it is necessary to develop the highest standards possible for its
12 transparency of governance and its accountability to its users. In addition,
13 it is necessary for the judicial department to maintain its revenue
14 generated from the operation of the public access system to ensure proper
15 dissemination of public judicial information. Therefore, the general
16 assembly determines it is necessary to provide a governance structure for
17 the system.

18 **SECTION 2.** Article 3 of title 13, Colorado Revised Statutes, is
19 amended BY THE ADDITION OF A NEW SECTION to read:

20 **13-3-114. Judicial department public access system -**
21 **definitions.** (1) (a) (I) THE JUDICIAL DEPARTMENT SHALL OFFER A PUBLIC
22 ACCESS SYSTEM THAT ALLOWS DIRECT-PAYING USERS AND NONPAYING

1 USERS REMOTE ACCESS TO COURT RECORDS FROM THE JUDICIAL
2 DEPARTMENT. THE JUDICIAL DEPARTMENT SHALL, THROUGH
3 DIRECT-PAYING USERS AND NONPAYING USERS, PROVIDE REMOTE ACCESS
4 TO COURT RECORDS TO THE PUBLIC WITHOUT UNDUE BURDEN OR COST.
5 THE JUDICIAL DEPARTMENT SHALL NOT PROHIBIT A DIRECT-PAYING USER
6 FROM REPLICATING THE DATA ON ITS OWN SYSTEM IF THE REPLICATED
7 DATA IS AUDITED PURSUANT TO STANDARDS ADOPTED BY THE AMERICAN
8 INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS FOR INTERNAL CONTROLS
9 OF A SERVICE ORGANIZATION.

10 (II) A DIRECT-PAYING USER WHO REPLICATES THE DATA ON ITS
11 OWN SYSTEM SHALL NOT PROVIDE THE COMPLETE REPLICATED DATA TO
12 ANOTHER PERSON.

13 (b) THE PUBLIC ACCESS SYSTEM SHALL BE GOVERNED BY THE
14 PROVISIONS OF THIS SECTION AND BY THE BOARD APPOINTED PURSUANT
15 TO SUBSECTION (3) OF THIS SECTION.

16 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
17 REQUIRES:

18 (a) (I) "COURT RECORDS" INCLUDES ANY DOCUMENT,
19 INFORMATION, OR OTHER ITEM THAT IS COLLECTED, RECEIVED, OR
20 MAINTAINED BY A COURT OR CLERK OF COURT IN CONNECTION WITH A
21 JUDICIAL PROCEEDING AND ANY INDEX, CALENDAR, DOCKET, REGISTER OF
22 ACTIONS, OFFICIAL RECORD OF THE PROCEEDINGS, ORDER, DECREE,
23 JUDGMENT, OR MINUTE ORDER, THAT IS RELATED TO A JUDICIAL
24 PROCEEDING.

25 (II) "COURT RECORDS" DOES NOT INCLUDE RECORDS MAINTAINED
26 BY THE COURT OR CLERK OF COURT PERTAINING TO THE ADMINISTRATION
27 OF THE COURT OR CLERK OF COURT'S OFFICE THAT ARE NOT ASSOCIATED

1 WITH A PARTICULAR CASE; ADMINISTRATIVE AND MANAGEMENT REPORTS;
2 JUDGES' NOTES AND JUDICIAL WORK PRODUCT RELATED TO THE
3 DELIBERATIVE PROCESS; AND INFORMATION GATHERED, MAINTAINED, OR
4 STORED BY A GOVERNMENTAL AGENCY OR OTHER ENTITY TO WHICH THE
5 COURT HAS ACCESS BUT THAT IS NOT PART OF THE COURT RECORD.

6 (b) "DIRECT-PAYING USER" MEANS A PERSON OR ENTITY THAT
7 PROVIDES COURT RECORDS TO OTHERS, INCLUDING THE GENERAL PUBLIC,
8 AS A PART OF ITS BUSINESS.

9 (c) "NONPAYING USER" MEANS A GOVERNMENTAL ENTITY THAT IS
10 PROVIDED WITH COURT RECORDS THROUGH THE REMOTE PUBLIC ACCESS
11 SYSTEM WITHOUT CHARGE.

12 (3) (a) THERE IS HEREBY CREATED IN THE JUDICIAL DEPARTMENT
13 THE JUDICIAL PUBLIC ACCESS SYSTEM BOARD, REFERRED TO IN THIS
14 SECTION AS THE "BOARD".

15 (b) (I) THE BOARD SHALL CONSIST OF ELEVEN MEMBERS
16 APPOINTED AS FOLLOWS:

17 (A) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
18 HOUSE OF REPRESENTATIVES SHALL EACH APPOINT TWO MEMBERS. ONE
19 MEMBER APPOINTED BY THE PRESIDENT SHALL REPRESENT THE INTEREST
20 OF THE PRESS. ONE MEMBER APPOINTED BY THE SPEAKER SHALL BE A
21 MEMBER OF THE GENERAL PUBLIC.

22 (B) THE MINORITY LEADER OF THE SENATE AND THE MINORITY
23 LEADER OF THE HOUSE OF REPRESENTATIVES SHALL EACH APPOINT ONE
24 MEMBER;

25 (C) THE GOVERNOR SHALL APPOINT ONE MEMBER FROM THE
26 OFFICE OF INFORMATION TECHNOLOGY; AND

27 (D) THE CHIEF JUSTICE SHALL APPOINT TWO MEMBERS WHO SHALL

1 BE JUDICIAL DEPARTMENT EMPLOYEES, AND TWO ADVISORY, NONVOTING
2 MEMBERS WHO [REDACTED] SHALL BE DIRECT-PAYING USERS. THE CHIEF
3 JUSTICE SHALL DESIGNATE ONE OF THE JUDICIAL DEPARTMENT APPOINTEES
4 TO SERVE AS CHAIR OF THE BOARD.

5 (II) THE APPOINTING AUTHORITIES SHALL MAKE THEIR INITIAL
6 APPOINTMENTS TO THE BOARD NO LATER THAN THIRTY DAYS AFTER THE
7 EFFECTIVE DATE OF THIS SECTION.

8 (III) EACH MEMBER OF THE BOARD WHO IS APPOINTED PURSUANT
9 TO SUB-SUBPARAGRAPHS (A), (B), AND (C) OF SUBPARAGRAPH (I) OF THIS
10 PARAGRAPH (b) SHALL SERVE AT THE PLEASURE OF THE OFFICIAL WHO
11 APPOINTED THE MEMBER. EACH MEMBER OF THE BOARD APPOINTED BY
12 THE CHIEF JUSTICE SHALL SERVE A FOUR-YEAR TERM; EXCEPT THAT THE
13 NONCHAIR MEMBER FROM THE JUDICIAL DEPARTMENT INITIALLY
14 APPOINTED SHALL SERVE A TWO-YEAR TERM AND ONE OF THE
15 DIRECT-PAYING USER MEMBERS INITIALLY APPOINTED SHALL SERVE A
16 TWO-YEAR TERM.

17 (IV) EACH LEGISLATIVE MEMBER SHALL RECEIVE REIMBURSEMENT
18 FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE
19 OF HIS OR HER DUTIES AS A MEMBER OF THE BOARD. THE NONLEGISLATIVE
20 MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION AND
21 WITHOUT REIMBURSEMENT FOR EXPENSES.

22 (c) THE BOARD SHALL MEET AT LEAST ONCE EVERY SIX MONTHS.
23 THE CHAIR MAY CALL SUCH ADDITIONAL MEETINGS AS MAY BE NECESSARY
24 FOR THE BOARD TO COMPLETE ITS DUTIES. THE MEETING DATES SHALL BE
25 MADE PUBLIC AT LEAST SEVEN DAYS BEFORE THE MEETING, AND AN
26 AGENDA FOR EACH MEETING SHALL BE MADE PUBLIC AT LEAST
27 FORTY-EIGHT HOURS PRIOR TO THE MEETING DATE. THE BOARD SHALL BE

1 A STATE PUBLIC BODY AS DEFINED IN SECTION 24-6-402 (1) (d), C.R.S.,
2 AND SHALL BE SUBJECT TO SECTION 24-6-402, C.R.S. THE BOARD SHALL
3 PUBLISH THE MEETING MINUTES ON THE JUDICIAL DEPARTMENT WEB SITE.

4 (d) THE BOARD SHALL HAVE THE FOLLOWING POWERS AND DUTIES:

5 (I) TO CONDUCT BUSINESS AND MAKE DECISIONS IN ACCORDANCE
6 WITH THIS SECTION, UPON AFFIRMATIVE VOTE OF THE MAJORITY OF THE
7 QUORUM PRESENT AT ANY MEETING;

8 (II) TO APPROVE A PRICING SCHEDULE FOR THE PUBLIC ACCESS
9 SYSTEM FOR ONGOING ACCESS AND A PER-TIME BASIS, AND TO APPROVE
10 ANY CHANGES TO THE SCHEDULE;

11 (III) TO DETERMINE WHAT INFORMATION IS AVAILABLE IN THE
12 PUBLIC ACCESS SYSTEM AND IN WHAT FORM THE INFORMATION IS
13 AVAILABLE, IN ACCORDANCE WITH AND SUBJECT TO THE LIMITATIONS OF
14 ARTICLE 72 OF TITLE 24, C.R.S.; AND

15 (IV) TO ADDRESS ANY OTHER MATTERS RELEVANT TO THE PUBLIC
16 ACCESS SYSTEM.

17 (e) UPON REQUEST BY THE BOARD, THE JUDICIAL DEPARTMENT
18 SHALL PROVIDE OFFICE SPACE, EQUIPMENT, AND STAFF SERVICES AS MAY
19 BE NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

20 (f) ALL EXPENDITURES NECESSARY FOR THE OPERATION OF THE
21 BOARD SHALL BE PAID OUT OF THE JUDICIAL DEPARTMENT INFORMATION
22 TECHNOLOGY CASH FUND, CREATED IN SECTION 13-32-114.

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

Appendix 2

HB11-1282

Tally of Votes

1 **THIRD READING OF BILL(S)--FINAL PASSAGE**

2
3 The following bill(s) was(were) considered on Third Reading. The
4 title(s) was(were) publicly read. Reading of the bill at length was
5 dispensed with by unanimous consent.

6
7 **HB11-1157** by Representative(s) Casso--Concerning the exemption
8 from the heavy-duty diesel inspection program of heavy-
9 duty diesel vehicles based outside the program area as part
10 of a fleet registered in the program area, and making an
11 appropriation therefor.

12
13 The question being "Shall the bill pass?".

14 A roll call vote was taken. As shown by the following recorded vote, a
15 majority of those elected to the House voted in the affirmative and the bill
16 was declared **passed**.

	YES	63	NO	0	EXCUSED	2	ABSENT	0
19	Acree	Y	Fischer	Y	Liston	Y	Scott	Y
20	Balmer	Y	Gardner B.	Y	Looper	Y	Solano	Y
21	Barker	Y	Gardner D.	Y	Massey	Y	Sonnenberg	Y
22	Baumgardner	Y	Gerou	Y	McCann	Y	Soper	Y
23	Becker	Y	Hamner	Y	McKinley	E	Stephens	Y
24	Beezley	Y	Holbert	Y	Miklosi	Y	Summers	Y
25	Bradford	Y	Hullinghorst	Y	Murray	Y	Swalm	Y
26	Brown	Y	Jones	Y	Nikkel	Y	Swerdfeger	Y
27	Casso	Y	Joshi	Y	Pabon	Y	Szabo	Y
28	Conti	Y	Kagan	E	Pace	Y	Todd	Y
29	Coram	Y	Kefalas	Y	Peniston	Y	Tyler	Y
30	Court	Y	Kerr A.	Y	Priola	Y	Vaad	Y
31	DelGrosso	Y	Kerr J.	Y	Ramirez	Y	Vigil	Y
32	Duran	Y	Labuda	Y	Riesberg	Y	Waller	Y
33	Ferrandino	Y	Lee	Y	Ryden	Y	Williams A.	Y
34	Fields	Y	Levy	Y	Schafer S.	Y	Wilson	Y
35							Speaker	Y

36 Co-sponsor(s) added: Representative(s) Baumgardner, Brown, Coram, Fields,
37 Gerou, Holbert, Liston, Looper, Murray, Schafer S., Vigil.

38
39 **HB11-1282** by Representative(s) Gardner B., Kerr J., Liston; also
40 Senator(s) Carroll--Concerning the judicial public access
41 system.

42
43 As shown by the following roll call vote, a majority of all members
44 elected to the House voted in the affirmative, and Representative
45 Gardner B., was given permission to offer a Third Reading amendment:

	YES	63	NO	0	EXCUSED	2	ABSENT	0
48	Acree	Y	Fischer	Y	Liston	Y	Scott	Y
49	Balmer	Y	Gardner B.	Y	Looper	Y	Solano	Y
50	Barker	Y	Gardner D.	Y	Massey	Y	Sonnenberg	Y
51	Baumgardner	Y	Gerou	Y	McCann	Y	Soper	Y
52	Becker	Y	Hamner	Y	McKinley	E	Stephens	Y
53	Beezley	Y	Holbert	Y	Miklosi	Y	Summers	Y
54	Bradford	Y	Hullinghorst	Y	Murray	Y	Swalm	Y
55	Brown	Y	Jones	Y	Nikkel	Y	Swerdfeger	Y
56	Casso	Y	Joshi	Y	Pabon	Y	Szabo	Y

1	Conti	Y	Kagan	E	Pace	Y	Todd	Y
2	Coram	Y	Kefalas	Y	Peniston	Y	Tyler	Y
3	Court	Y	Kerr A.	Y	Priola	Y	Vaad	Y
4	DelGrosso	Y	Kerr J.	Y	Ramirez	Y	Vigil	Y
5	Duran	Y	Labuda	Y	Riesberg	Y	Waller	Y
6	Ferrandino	Y	Lee	Y	Ryden	Y	Williams A.	Y
7	Fields	Y	Levy	Y	Schafer S.	Y	Wilson	Y
8							Speaker	Y

9
10 **Third Reading amendment No. 1**, by Representative Gardner B.

11
12 Amend engrossed bill, page 5, line 2, strike "SHALL BE JUDICIAL
13 DEPARTMENT EMPLOYEES AND TWO".

14
15 Page 5, line 3, strike "OF WHOM".

16
17 The amendment was declared **passed** by the following roll call vote:

18	YES	63	NO	0	EXCUSED	2	ABSENT	0
19	Acree	Y	Fischer	Y	Liston	Y	Scott	Y
20	Balmer	Y	Gardner B.	Y	Looper	Y	Solano	Y
21	Barker	Y	Gardner D.	Y	Massey	Y	Sonnenberg	Y
22	Baumgardner	Y	Gerou	Y	McCann	Y	Soper	Y
23	Becker	Y	Hamner	Y	McKinley	E	Stephens	Y
24	Beezley	Y	Holbert	Y	Miklosi	Y	Summers	Y
25	Bradford	Y	Hullinghorst	Y	Murray	Y	Swalm	Y
26	Brown	Y	Jones	Y	Nikkel	Y	Swerdfeger	Y
27	Casso	Y	Joshi	Y	Pabon	Y	Szabo	Y
28	Conti	Y	Kagan	E	Pace	Y	Todd	Y
29	Coram	Y	Kefalas	Y	Peniston	Y	Tyler	Y
30	Court	Y	Kerr A.	Y	Priola	Y	Vaad	Y
31	DelGrosso	Y	Kerr J.	Y	Ramirez	Y	Vigil	Y
32	Duran	Y	Labuda	Y	Riesberg	Y	Waller	Y
33	Ferrandino	Y	Lee	Y	Ryden	Y	Williams A.	Y
34	Fields	Y	Levy	Y	Schafer S.	Y	Wilson	Y
35							Speaker	Y

36
37
38 The question being, "Shall the bill, as amended, pass?".

39 A roll call vote was taken. As shown by the following recorded vote, a
40 majority of those elected to the House voted in the affirmative, and the
41 bill, as amended, was declared **passed**.

42	YES	60	NO	3	EXCUSED	2	ABSENT	0
43	Acree	N	Fischer	Y	Liston	Y	Scott	Y
44	Balmer	Y	Gardner B.	Y	Looper	Y	Solano	Y
45	Barker	Y	Gardner D.	Y	Massey	Y	Sonnenberg	Y
46	Baumgardner	Y	Gerou	Y	McCann	Y	Soper	Y
47	Becker	Y	Hamner	Y	McKinley	E	Stephens	Y
48	Beezley	Y	Holbert	Y	Miklosi	Y	Summers	Y
49	Bradford	Y	Hullinghorst	Y	Murray	Y	Swalm	Y
50	Brown	Y	Jones	Y	Nikkel	Y	Swerdfeger	Y
51	Casso	Y	Joshi	Y	Pabon	Y	Szabo	Y
52	Conti	Y	Kagan	E	Pace	Y	Todd	Y
53	Coram	Y	Kefalas	Y	Peniston	Y	Tyler	Y
54	Court	Y	Kerr A.	Y	Priola	Y	Vaad	Y
55	DelGrosso	Y	Kerr J.	Y	Ramirez	Y	Vigil	Y

1	Duran	Y	Labuda	Y	Riesberg	N	Waller	Y
2	Ferrandino	N	Lee	Y	Ryden	Y	Williams A.	Y
3	Fields	Y	Levy	Y	Schafer S.	Y	Wilson	Y
4							Speaker	Y

5 Co-sponsor(s) added: Representative(s) Fields, Murray, Nikkel, Wilson.

6
7 On motion of Representative Stephens, consideration of Third Reading
8 on **HB11-1141, SB11-063** was laid over until April 8, retaining place on
9 Calendar.

13 CONSIDERATION OF SENATE AMENDMENTS TO HOUSE BILLS

14
15 **HB11-1209** by Representative(s) Jones, Looper, Massey; also
16 Senator(s) Heath--Concerning the creation of a small
17 business navigator by the small business assistance center
18 under the office of economic development.

19
20 (Amended as printed in Senate Journal, March 25, page 577, and on Third
21 Reading as printed in Senate Journal March 29.)

22
23 Representative Jones moved that the House **not concur** in Senate
24 amendments and that a Conference Committee be appointed. The motion
25 was declared **passed** by the following roll call vote:

27	YES	56	NO	7	EXCUSED	2	ABSENT	0
28	Acree	N	Fischer	Y	Liston	Y	Scott	Y
29	Balmer	N	Gardner B.	Y	Looper	Y	Solano	Y
30	Barker	Y	Gardner D.	Y	Massey	Y	Sonnenberg	Y
31	Baumgardner	Y	Gerou	Y	McCann	Y	Soper	Y
32	Becker	N	Hamner	Y	McKinley	E	Stephens	Y
33	Beezley	N	Holbert	N	Miklosi	Y	Summers	Y
34	Bradford	Y	Hullinghorst	Y	Murray	Y	Swalm	Y
35	Brown	N	Jones	Y	Nikkel	N	Swerdfeger	Y
36	Casso	Y	Joshi	Y	Pabon	Y	Szabo	Y
37	Conti	Y	Kagan	E	Pace	Y	Todd	Y
38	Coram	Y	Kefalas	Y	Peniston	Y	Tyler	Y
39	Court	Y	Kerr A.	Y	Priola	Y	Vaad	Y
40	DelGrosso	Y	Kerr J.	Y	Ramirez	Y	Vigil	Y
41	Duran	Y	Labuda	Y	Riesberg	Y	Waller	Y
42	Ferrandino	Y	Lee	Y	Ryden	Y	Williams A.	Y
43	Fields	Y	Levy	Y	Schafer S.	Y	Wilson	Y
44							Speaker	Y

45 The Speaker appointed Representatives Jones, Chairman, Massey and
46 Looper as House conferees to the bill.

47
48
49 **HB11-1185** by Representative(s) Ramirez; also Senator(s) Mitchell--
50 Concerning the imposition of a time limit within which a
51 lienholder must provide the certificate of title to a motor
52 vehicle with evidence of release of a lien that has been
53 satisfied.

54
55 (Amended as printed in Senate Journal, April 1, page 620.)

Appendix 3

Letter from House Judiciary Committee Chair

State Representative
ROBERT S. GARDNER
P.O. Box 1082
Colorado Springs, CO 80901
Capitol: 303-866-2191
E-mail: bob.gardner.house@state.co.us



Chairman:
Judiciary Committee
Legal Services
Member:
Appropriations Committee
Local Government Committee

COLORADO
HOUSE OF REPRESENTATIVES

STATE CAPITOL

DENVER

80203

October 22, 2012

Justice Monica Marquez
Colorado Supreme Court
Chair, Judicial Public Access Committee
101 West Colfax Avenue, Suite 800
Denver, CO 80202

Dear Justice Marquez:

As the Chairman of the House Judiciary Committee, I am writing to you as the Chair of the Judicial Public Access Committee. I am very interested in the actions of the Public Access Committee, as I believe state government, including the Judicial Department, must offer along with transparency, the best information technology services available to our citizens. My keen interest in Judicial and IT issues is a major reason that I was the prime sponsor of HB 11-1282, Concerning the Judicial Public Access System.

At the time of its introduction, I believed HB11-1282 was needed, as public stakeholders had expressed concerns to me as Judiciary Committee Chairman that the public access committee had been inactive for several years and that the issues being raised by various parties concerning the Department's public access program had not received the necessary attention. HB 11-1282 received bipartisan and unanimous support in both the House Judiciary Committee and on the House floor. A major reason for its popularity was that the General Assembly believes that the state must be responsive to customers' public access and IT concerns. With the rapid advancement of technology, customers today want systems that respond quickly. I am told that the current public access system is slow compared to a system that provides replicated data.

While HB11-1282 ultimately was postponed indefinitely in the Senate after discussions with the Judicial Department, it was our understanding that the Department would work to address the concerns raised in the bill and indeed, the Department has done so on a number of issues. However, an issue that has not been adequately addressed in my view is the matter of a data mirror or replicated data.

Justice Monica Marquez

October 22, 2012

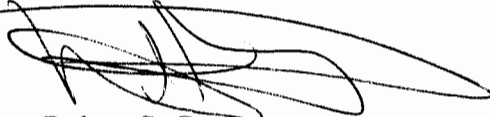
Page 2

In HB11-1282, there was a requirement that the Judicial Department provide a data mirror or replicated data to those vendors using the public access system. Besides increasing the speed of the system, replicated data would increase the revenues to the Department. Given these difficult economic times, any program that can increase cash funds should be thoroughly investigated and, hopefully, implemented in a thoughtful fashion taking account of all legitimate concerns.

I believe given the diverse and widespread talent on your committee, a solution for supplying replicated data to vendors can be reached in a way that benefits both the Judicial Department and the public. I realize there may be security as well as other issues that need to be addressed, but the Public Access Committee has many talented and creative people who can design an acceptable solution to this problem. Therefore, I encourage the Judicial Public Access Committee to seek a system and methodology for providing replicated data that is fast, secure, accurate, and cost-effective for both vendors and the Judicial Department.

I appreciate the committee's consideration of these matters and thank both you and the committee for your service to the citizens of Colorado.

Sincerely,



Robert S. Gardner
State Representative
Chair, House Judiciary Committee

Appendix 4

Letter from Senate Judiciary Committee Chair



MORGAN CARROLL
SENATE DISTRICT 29

STATE CAPITOL BUILDING
200 E. COLFAX AVENUE
DENVER, COLORADO 80203
CAPITOL: 303-866-4879
CAPITOL FAX: 303-866-4543
CELL: 303-726-1742

Email: morgan@senatormorgancarroll.com

Senate Chamber
State of Colorado
Denver

COMMITTEES

JUDICIARY
CHAIR
AGRICULTURE, NATURAL RESOURCES,
ENERGY
MEMBER
LEGAL SERVICES
MEMBER

October 23, 2012

Justice Monica Marquez
Colorado Supreme Court
Chair, Judicial Public Access Committee
101 West Colfax Avenue, Suite 800
Denver, CO 80202

Dear Justice Marquez:

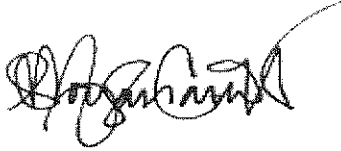
I am writing this note to you in your capacity as Chair of the Judicial Public Access Committee. First, let me congratulate you for your service on this important committee. There are many members in the Legislature, like myself, that believe Judicial, like all departments, must continue to adapt to an ever increasing, technologically driven society. Your participation of this important committee is to be commended

As you may know before the introduction of HB 11-1282, the Public Access Committee had not convened in over two years and interested parties had been approaching me and other legislators for solutions to many Information Technology issues as related to the Department of Judicial. Unlike other departments, the state's Office of Technology does not manage Judicial IT issues; therefore, I believe that the Public Access committee needs to be an impartial venue where IT issues can be discussed in an open process and resolved in ways that benefit all parties. I believe this is now happening today and applaud the Department for having these meetings on a regular and open basis.

However, one important issue that still deserves further study is the possibility of providing a data mirror to Public Access System vendors. I would like to know if there is a way to provide this that is both secure, guarantees accuracy and of benefit to those customers of Judicial who use the system.

State government will continue to provide needed services to the people of our state. One area that can help ensure our success is by providing the most technologically advanced, user friendly, and secure IT services available.

Best wishes,

A handwritten signature in black ink, appearing to read "Morgan Carroll". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Senator Morgan Carroll
Chair, Senate Judiciary Committee

Appendix 5

BIS's comments on Data Replication Report

This appendix addresses elements in the March 2012 Judicial Task Force Data Replication Report where BIS has a differing point of view.

The first major point of difference turns on the word “suitable”, a word mentioned several times in the Report. BIS believes that for its current expenditure of approximately \$2 million per annum, an extraordinary amount for a small business, it should be supported by the Judicial Department in a manner enabling it to provide the best service to its customers, and that is most suitably done through data replication. The Judicial Department cannot know what is most suitable for BIS, it can only conjecture. The Public Access system has high visibility, and providing the best service possible makes both the Judicial Department and BIS look good in the public eye.

The second major point of difference is using what others are doing as justification for denying replication. Whether or not other States, Colorado State agencies, or the Judicial Department replicates data is a technical matter, and one which has been solved in the past for the Judicial Department. In BIS’s eyes, the critical question is whether or not Colorado State Agencies allow outside entities to hold their data and use it in a manner specified by contract. Many do, an example is the State’s current usage of Google for email. More to the point, there are several different departments known to do this with non-public, sensitive information. In the case of Judicial data, BIS is requesting replicated public information, controlled by a contract, not non-public, sensitive information, although it would be treated with like care by BIS. There are ample examples within this State supporting the most important element of BIS’s request for greater data sharing, where other agencies control use of State data on a non-State computer through a contract.

Comments on details in the report:

Page 3 “review the current policy related to bulk data releases using a form of data replication”

Since bulk data has been prohibited, but replication allowed as in the period from 2001 to 2006, subsequent to Chief Justice Directive 05-01, now defining bulk data as replication is a change of policy.

Page 3 “They considered whether the current access to electronic court records is suitable.”

Here “suitability” is defined by and for the Department, vendors may have, and one has a different definitions.

Page 3 “Creating the tapes that were ultimately released took two to three weeks to compile. Once a vendor received the tapes, they had to program the data to display in their program.”

Originally, BIS received the entire set of tapes, and a program was only written once, not for each separate time tapes were released. The original CMS tapes were produced overnight and did not take two to three weeks to compile. Later, when Judicial moved to a distributed environment logistical problems arose as there were twelve separate computers, each in a separate location, although each

execution of the program was overnight, it had to be repeated on twelve computers. BIS paid for the Department's program development costs and computer time, and it compiled the data itself from the separate tapes.

Page 4 "In 1997, parties and court staff reported concerns to the State Court Administrator's Office (SCA) regarding inaccurate and confidential information that was available on the Internet."

Minute orders were removed in the data distribution. BIS never made data available "on the Internet", it was provided to customers under contract with specification that it would be used in a manner consistent with the Fair Credit Reporting Act, and BIS corrected any problems brought to its attention by immediately deleting the cases from its system.

Page 4 "Additionally, as cases were sealed by the court, there was no way to remove them from the data releases that had previously been distributed."

There was a system developed in which an automated e-mail was sent by the Department containing a list of sealed cases and these were removed from BIS's system immediately.

Page 4 "Records were not only being displayed by the commercial entities that received the data releases directly from the Judicial Department, but the vendors also sold the data to other companies/subscribers—some of which were outside of the United States."

BIS did not resell bulk data, and did not have offshore customers.

Page 4 "However, issues continued to surface regarding court records being posted on the Internet that were not updated in the real-time format that was required by contract."

"Posted" is misleading as data was not posted on the Internet by BIS, the Internet was used for communications, replacing dial-in modems, not as a public broadcast medium.

Page 5 "This was to address the issue of stale data being made available on the Internet and the database being sold to commercial entities that were not contracted with the Department."

This is not applicable to BIS as far as it knows, and was not brought to BIS attention by the Department. BIS displayed a real-time count of names on its name search page, and any customer contracted to use the BIS system could see the count changing as real-time updates occurred. This accusation has been repeated many times, and is not applicable to BIS.

Page 5 "This is the same access as the previous vendor/agent provided since January 2006. All access to the court records are in a real-time search, either by party name or by case number."

The pre-2006 replicated data provided a far better system for BIS and its customers due to speed, reliability, and the ability to wildcard components of names.

Page 5 "Participants of this Task Force researched but could not identify any other Colorado State Government Agency that replicates its database to vendors."

However, Colorado State agencies provide vendors non-public information to be used in a manner specified by that agency. The instances can be furnished privately.

Pages 6-13 Of the four states mentioned, three provide bulk data to vendors, Utah, Washington, and North Dakota. One other, Arizona, mentioned later in the Report also does, additionally New York provides bulk data, and updates it several times a day. BIS believes Indiana, by court order, will be making bulk data available. BIS does not wish to receive bulk data from Colorado, but wishes to return to the pre-2006 status and receive replicated public information whose usage is specified by contract. The replicated data remains the property of the Department.

Page 14 “Data replication access would require the Judicial Department to provide the entire court record database to commercial vendors.”

BIS is requesting only a small and public part of the court record database. Replication does not require replicating the entire database.

Page 14 “One such improvement would be that the vendor would not have to identify when the system is down (not live).”

A major difficulty for BIS is identifying where an intermittent problem is occurring. The current systems’ interconnection is very difficult to debug. To give an example: when one of the Departments servers is malfunctioning, every so often a name search will fail. BIS customers rightly complain, and isolating the problem is time consuming and may take hours or days.

Page 14 “Though rare, there have been occasions when connectivity between the two vendors and the Judicial Department was unavailable for short periods of time.”

BIS letter on page 19 of the Report states that outages, as measured, were equivalent to 9 half days per year, not a rare event.

Page 15 “The longer that stale data is accessed, the less accurate the court records become. In this situation, it would also be difficult for the Judicial Department to ensure that the vendor returned to a live data display when the connectivity is restored.”

Bringing data tables into synchronization after outages is the function of replication software, and it is competent at this task. Reference to stale data also begs the question of whether delays in the initial data entry are more significant than replication problems.

Page 15 “There is no way for the Judicial Department to audit the use or location of the data once it is released to the recipient, including copies that the recipient may provide to other entities or subscribers. “

BIS business is dependent on treating confidential data properly, otherwise its own customers, whose data is confidential, would not deal with BIS. The data BIS wishes replicated is public data, but recognizing the Department’s wishes, the Department’s data would be protected most carefully.

Page 15 “Localized data stores created through data replication by itself create inefficiencies and can seriously damage the reputation and lives of others if the recipient fails to receive real-time updates due to technical difficulties or network outages.”

Replication software and networks are highly reliable, many entities routinely depend on the proper functioning of both.

By posting the Data Replication Report on the Internet, the Department has made public, information which BIS believes to be incorrect and which could have an adverse affect on its reputation.

Page 15 “Many of these web service protocols were designed and created to eliminate the inefficiencies of duplicating data stores.”

For BIS business, the cost of replication would be outweighed by the benefits.

Page 15 “When data replication fails between one or more entities, the risk of displaying stale or inaccurate information can be damaging to the lives of others. According to a recent Associated Press article titled ‘AP Impact: When Your Criminal Past Isn’t Yours’, others can suffer devastating consequences when government agencies erase criminal conviction information yet commercial databases are not updated to reflect this information due to a myriad of technical and negligent factors.”

Given the reliability of replication, this article is an irrelevant inclusion. The article does appear to be inflammatory and bring into question the well-established practice of performing credit and background checks, required in appropriate circumstances by prudence and often by statute.

Page 15 “The Judicial Department’s database is a very large and complex relational database. The structure is complicated and will become even more complicated and highly normalized—a method by which the database is designed to maintain the integrity of the data while also eliminating redundant data—with the implementation of its new case management system (jPOD). If the entire database is released to vendors, judicial staff will need to train vendors to understand the complexities of Judicial’s database so vendors can display the information correctly. “

The Judicial Department’s entire system is complex, however, the public data for which BIS is asking is a small and rather simple subset. Repeated mention is made of “vendors” as if there are a host of them, however, historically there are one or two who are interested enough in the Department’s data to make the major commitment required to properly replicate and secure it. It is BIS’s understanding that the Department replicates data internally and has the software already available.

Page 16 “Another significant concern raised by database replication is the possibility that recipients may use the data to create statistics that are inaccurate. “

As in the period when BIS received replicated data, usage would be specified by contract. At that time BIS was not even allowed to provide an XML interface to its customers although its competitor CoCourts

was allowed to. BIS was singled out for this prohibition, and properly honored it. Additionally, no statistical analyses were created by BIS.

Page 16 “Currently, only certain search capabilities have been approved for the public by the Public Access Committee. The purpose of providing these specific searches is to meet the demand of providing court records for background investigations. The approved search parameters are searches conducted by name or by case number. Searches can be refined with additional filters within these parameters (such as “all” or specific counties, date range of case filings, type of case, date of birth of party, etc.). Vendors are limited to these specific searches by the current XML access. Name searches are complete searches because these searches include accessing all case Registers of Actions that are returned when searching for a specific name.”

With replicated data, the Public Access Committee would still define the usage of the Department’s data.

Even though a name search is now allowed, the current name search is inadequate as the last and first names are treated as a unit, not independently.

Page 16 “There are variable costs associated with providing data replication. These include programming, and hardware costs (CPU utilization cost). Programming would be necessary to remove sealed and confidential cases as well as redact confidential information within cases. The Task Force anticipates that additional vendors may be interested in data replication because of the commercial value of data releases. Judicial staff and programmers would also need to assist and train receiving companies to understand the database structure, the relationships between the many tables, and how to correctly display and aggregate the fields. This process can be extremely time intensive and the Department is not staffed to perform such work. Currently Judicial does not have sufficient staff to support multiple vendors maintaining the Judicial Department’s replicated database. From a hardware cost perspective, additional CPU (Central Processor Units) on Department servers would be necessary to support increased CPU utilization, which is precipitated by configuring multiple data replication targets.”

The presumption in this paragraph is that replication, if offered to anyone, must be offered to all. Setting a reasonable financial bar eliminates this problem. It should be only those entities which contribute considerably to the Department’s finances that should be considered. Due to the reason of considerable financial contribution, it should be worthwhile for the Department to work with selected vendors. By carefully defining what is to be replicated, the associated preparation costs can be minimized, and were in the past.

The operating cost of replication is not necessarily higher than the current XML interface.

Page 16 “Database replication would also require the Judicial Department to revisit the pricing structure of providing data to vendors. A per search fee is not suitable because the vendor would have complete control over the database and there is no method for the Judicial Department to identify the number of searches that a vendor conducts against a localized database. A new pricing structure would need to be created that allows the Department to continue to collect sufficient fees to fund the

personnel and system hardware necessary to sustain the public access project. These fees are currently collected on a nominal per search fee (\$1.75 to \$2.25 per search depending on the quantity of searches a vendor conducts).”

Vendors have a strong motive to not mislead the Department as to the number of searches performed, as such would be eventually discovered and service to that vendor terminated with prejudice. Audits could be performed by an independent entity and paid for by the vendor. This would obviate the need for changing the pricing structure.

The Department’s current accounting system is not especially accurate as it undercounts repeated searches, assuming that these may be erroneous, and it can over count searches which fail do to server problems at the Department.

Page 17 “In rare situations where web services may become unavailable due to network or server outages, the entity displaying the information can produce a “temporarily unavailable” notification to requesters of the information rather than supplying stale or static data if the data were localized. Network and server outages are infrequent, and proper disaster recovery measures have been put in place to ensure failover services are provided in the event of a server outage. The Judicial Department is working on redundant network paths in the event a primary network outage occurs.”

In BIS’s estimation, reliability would be best served through replication as its definition of “rare” and the Department’s definition differ.

It is quite difficult to isolate problems, given the current design, and BIS has had to devote too many resources to this activity.

Page 17 “While data replication technology does exist that allows the transfer of real-time data to various targets or data stores, to configure and maintain replication between one more systems would require significant work. Data replication technologies also make the process of expunging personal identifying information within textual data fields more difficult when data is normally configured to map data field to data field. With a web service approach, the Department can program to remove any personal identifying information prior to transmission. “

BIS has a thorough understanding of the Department’s data and is capable of developing programs to expunge data according to the Department’s standards, were that necessary.

Page 17 “Vendors have advised the Judicial Department that if data were replicated to outside vendors, they believe they could realize significant search performance improvement through the use of in-memory database processing. “

It is unclear why this benefit of replication is listed as a criticism of replication, in an objective analysis it would not be.

Page 17 “From an information security perspective, the Judicial Department has a limited ability to ensure personal identifying information is secure at rest and during transmission when data is replicated

to outside entities. Once unstructured data leaves the judicial network, the Department forfeits the integrity and security of the information, which ultimately puts the public at risk. While audits are necessary, the Judicial Department is not staffed or funded at this time to conduct such audits.”

BIS’s computer vendor, Computer Systems Design Company (CSDC), has very high security standards, as it maintains non-public data for Colorado and other States. CSDC provides an independent check on BIS operation, and BIS itself must conform to Federal standards through HIPPA.

Page 20 “Currently, these other vendors and commercial entities still access the court records, but they must obtain the information using one of the current vendors systems rather than using a direct XML pass-through to the Department’s system.”

Other vendors and commercial entities choose to access the current vendors’ systems, they are not required to as the word “must” implies, as anyone may contract with the Department for XML access.

Page 21 “Current access to electronic court data is appropriate and sufficient. The process of allowing vendors to access electronic court records using Web Service or XML pass-through protocol provides complete, accurate and up-to-date records. If data replication becomes an option for electronic record release, it is probable that additional vendors would obtain this type of access, which opens the door to a variety of problems such as those outlined in the Data Replication Disadvantages section.”

Every approach is bound to have advantages and disadvantages. BIS differs with the Department as it thinks replication is the better alternative for itself.

Page 21 “Data and information from a replicated database cannot be sufficiently protected. It would be impossible for the Department to identify where the database may be sold once it leaves the Department as a replicated database. This means that case information that could be available on the Internet may be stale and therefore inaccurate. It would also be impossible to ensure that previously released records are sealed when the court so orders.”

These statements contradict what is a common and widespread practice, entities do trust one another with confidential data. The Department has done this in the past with BIS without security problems.

Page 21 “If access to court and probation records were to change to a replication model, the accuracy of data displays could not be sufficiently monitored. The Department’s electronic databases are extremely large and complex. Department resources would be required to providing training regarding table joins and data display to customers receiving the replicated data. Because of the database complexities, if the data were to be released without training for the companies receiving the data, records may be displayed and publicly available with inaccurate information associated with individuals. Furthermore, the Department would have no mechanism to ensure the release of any replicated data is accurate and complete at all times, and that the data is not being sold or redistributed to other entities. At this time, the Department does not have sufficient extra resources to make changes to data access and must use its resources to focus on other projects that are currently in development.”

BIS is requesting access to public information, and a small subset of the Department’s data. The term “replication” has been repeatedly used to mean all of the Department’s data and that has never been BIS’s request. BIS is providing resources to the Department through monthly payments for data access,

which should justify a reasonable allocation of Departmental resources, allowing BIS to improve its system, thereby in turn benefiting the Department.

Page 21 “Discussion with other members of the Government Data Advisory Board (GDAB) and CICJIS, the Task Force identified that it is extremely uncommon for other Colorado governmental agencies to replicate data to a central data warehouse, let alone to replicate data repositories among multiple agencies. The architecture of such high-volume and large-scale data transformation systems is to use query pass through technologies such as Service Oriented Architecture (SOA). Given that many other agencies across the state see the inefficiencies found in storing duplicative data, it is the Task Force recommendation not create such inefficiencies with other private entities when the Department has established the proper Web Service architecture to retrieve data. “

In this case, it is BIS intent that a small, carefully defined subset of the entire collection of the Department’s data be replicated for a specific demonstrable benefit. Large organizations, and the State is not an exception, occasionally jump on bandwagons in an attempt at standardization and efficiency. The practice is more likely to follow the reality of a variety of approaches than the published policy might indicate, especially where there is a demonstrable public benefit, as in the case of limited replication.