MEMORANDUM

TO: Joint Budget Committee

FROM: Alfredo Kemm, JBC Staff (303-866-4549)

SUBJECT: Background Documents for JBC-LAC Meeting on Cash Funds Excess Reserves

DATE: January 8, 2015

Attached are background documents for Thursday's meeting with the Legislative Audit Committee and the State Auditor regarding Cash Funds Excess Reserves.

The first document is staff's issue brief included in the Department of Personnel briefing on December 3, 2014. The second document is the Cash Funds Subcommittee Report memo from the State Auditor to the LAC from October 31, 2014.

Issue 2: Cash Funds Excess Uncommitted Reserves Policy

The annual report on cash funds excess uncommitted reserves report from the Office of the State Controller and audit from the Office of the State Auditor continue to identify cash funds in violation for more than one year. Amendments to statutory policy should improve compliance and improve JBC and General Assembly monitoring and oversight of cash-funded program revenue management.

SUMMARY:

- During the 2014 session, the Office of the State Auditor released its audit of the Office of the State Controller's cash funds excess uncommitted reserves report which received additional media coverage due to the State Auditor's statements that there were TABOR implications related to funds with excess reserves.

- At the time the Committee requested follow-up information regarding cash funds included in that report, for which a follow-up memo was prepared by staff.

- During the 2014 interim, staff met with representatives from the executive branch to consider alternative policies for improving management and oversight of cash funds excess uncommitted reserves.

- The cross-branch workgroup met three times during the interim and are in agreement in proposing amendments to cash funds excess uncommitted reserves policy to improve management of excess reserves for TABOR implications and for better cash-funded program revenue management.

RECOMMENDATION:

Staff recommends that the Committee pursue legislation to amend Section 24-75-402, C.R.S., as follows:

- Change the name from *target reserve* to *maximum reserve* and *alternative target reserve* to *alternative maximum reserve*.
- Add a provision that requires cash funds to identify a capital outlay reserve for accumulated depreciation exempt from the maximum reserve.
- Add a provision that allows programs with multi-year revenue-collection cycles or revenue-contract periods to request that uncommitted reserves be averaged over the multi-year revenue-cycle period for the purpose of determining compliance with excess reserve requirements.
- Change the waiver process to allow a maximum 3-year waiver by the JBC, rather than by a statutory waiver.
- Increase the minimum uncommitted reserves for cash funds considered in the report to $200,000 from the current $50,000 exclusion.

- Add repeal dates to all excluded cash funds listed in Section 24-75-402, (5), C.R.S., requiring excluded funds to be reconsidered and extended prior to their repeal.
- Exclude the Division of Professions and Occupations Cash Fund from the requirements of Section 24-75-402, C.R.S., including automatic repeal in seven years.
- Require the State Controller to restrict spending authority following the third consecutive year of excess reserves, equal to the lesser of the excess reserve or the maximum reserve, until a waiver is approved or the fund is in compliance.

DISCUSSION:

Recent History
During the 2014 session, the Office of the State Auditor (OSA) released an audit report based on an annual report prepared by the Office of the State Controller (OSC) that reports on cash funds with excess uncommitted reserves. The OSC report and the OSA audit occur annually. The audit received additional media scrutiny because of the statements by the State Auditor that excess reserves have a TABOR implication. Staff prepared a follow-up memo as requested by the Committee for the purpose of better understanding and better managing the issue of cash funds excess reserves.

During the 2014 interim, staff met with representatives from the Governor's Office of State Planning and Budgeting (OSPB), the OSC, and executive branch departments to review existing statutory requirements and consider alternative policies for improving the management and oversight of cash funds excess uncommitted reserves by the executive branch and by the General Assembly through statute and budgetary processes. The workgroup met three times over the course of the interim and are in agreement with the proposed amendments to statute that follow in the Recommended Policy Changes section.

TABOR Implication
All cash fund revenues received by the State in a given fiscal year are revenues that count for the purpose of TABOR revenue limits. In years when the State has issued TABOR refunds, revenue generated by cash-funded programs benefit those programs, but taxpayer refunds are paid out of General Fund. All cash fund revenues, regardless of whether a particular cash-funded program is considered to have generated excessive revenue, have the effect of squeezing out General Fund in a TABOR refund year. In years when there is not a TABOR refund situation, the additional revenues generated by cash-funded programs do not have a TABOR implication.

The cash funds excess uncommitted reserves statute, Section 24-75-402, C.R.S., was added to address the issue of cash funds squeezing out General Fund in a TABOR refund year. But the provision applies every year, for the purpose of reporting and identifying funds out of compliance with excess reserves.

Excess reserves in themselves are not technically a TABOR problem. A cash-funded program that has generated excess reserves during years in which there is no TABOR refund has not contributed to a TABOR problem in a TABOR refund year. The revenues the cash-funded program generates in a TABOR refund year do contribute to a TABOR problem regardless of whether the revenue creates an operating surplus or deficit in the TABOR refund year. The existing reserve does not contribute to the TABOR problem per se.

The concept of using excess uncommitted reserves as a proxy for TABOR compliance for cash-funded programs is inexact but is a reasonable approximation of using policy to manage cash fund revenues and to require better cash-funded program revenue management. And the federal government as a general rule prefers to see excess reserves at no more than one month of operating expenses before it considers that a cash-funded program may be over-collecting revenue with fees set higher than cost. Section 24-75-402, C.R.S., allows an excess reserve of 16.5 percent, equal to two months of operating expenses.

So while an excess reserve in and of itself is not specifically a TABOR problem, the generation of substantial excess reserves suggests that a cash-funded program is setting fees in excess of costs, which in most cases is a cash fund revenue management problem. On that basis, it is reasonable for the State to manage cash-funded revenue collections through excess reserves, regardless of TABOR issues. However, because of the two different issues – TABOR and good cash-funded revenue management – there may be improved policies for managing the State's cash-funded programs through statute by keeping in mind the difference in those issues.

Recommended Policy Changes
The following policy or statutory changes are recommended by the interim workgroup along with the reason for their modification or adoption.

General Policies:
1. Change the name from *target reserve* to *maximum reserve* and *alternative target reserve* to *alternative maximum reserve*. The term *target reserve* appears to be thought of by cash-funded programs as the standard amount of reserve that a cash fund should target. However, a more appropriate target might be one month of reserve for a program with a regular monthly operational cash flow. Changing the name to *maximum reserve* will emphasize that the 16.5 percent limit is a limit and not a target around which a cash fund might reasonably fluctuate or that every cash fund should maintain as an ideal reserve.

2. Require cash funds to identify a capital outlay reserve for accumulated depreciation exempt from the maximum reserve. Senate Bill 14-108 allowed the Department of Personnel to identify the depreciation share of fee revenue as a set-aside in a *capital outlay reserve* for future capital outlay for its Capitol Complex and Integrated Document Solutions cash funds. The legislation still requires the Department to submit a budget request item for spending authority for accumulated funds in the capital outlay reserve. Setting aside depreciation in this way prevents capital depletion from subsidizing operations. For an illustration of this effect, see the cash flow model on page 22. It is recommended that all cash funds with depreciable assets identify a capital outlay reserve for the purpose of funding future capital replacement needs.

3. Allow programs with multi-year revenue-collection cycles or revenue-contract periods to request that uncommitted reserves be averaged over the multi-year revenue-cycle period for the purpose of determining compliance with excess reserve requirements. Some cash-funded programs have revenue cycles that extend over multiple years. Similarly some cash-funded programs are based on contract revenue over a given period, sometimes over multiple years. This provision would allow these programs to request that the OSC average revenue over the multi-year revenue period for the purpose of calculating excess reserves.

Waiver Policies:
4. Change the waiver process to allow a maximum three-year waiver to be granted by the JBC, rather than by bill in a statutory waiver. This process would require agency explanation for the excess reserve and a plan for eliminating the excess within the three-year period through a request to the JBC. The JBC would provide a letter to the State Controller identifying cash funds provided with a waiver through this process. This would eliminate the need for a bill to amend statute and should encourage cash-funded programs to request waivers at the time a cash fund is first identified as having an excess reserve with the anticipation that the excess reserve may not be eliminated within a single year.

Exclusion Policies:
5. Increase the minimum uncommitted reserves for cash funds considered in the report to $200,000 from the current $50,000 exclusion (Section 24-75-402, (5) (g), C.R.S). Cash funds with uncommitted reserves of less than $50,000 are excluded from statutory limitations due to the relatively insignificant total dollar amount and the relatively unpredictable nature of small program cash flow. Similarly, it is not unusual for small cash funds to exceed the $50,000 limit by a small amount. Examples include the Hazardous Waste Commission Fund and the Fixed-wing and Rotary-wing Ambulances Cash Fund in the Department of Public Health and Environment, which had uncommitted reserves of $50,304 and $50,913 respectively, and the Conservation Easement Holder Certification Fund in the Department of Regulatory Agencies, which had uncommitted reserves of $51,599. While these funds met the statutory requirements to be included in the excess uncommitted reserves report, it is questionable whether these funds rise to a level of concern requiring additional Committee or General Assembly attention. The 12 funds included in the FY 2012-13 report and audit, which have less than $200,000 in uncommitted reserves, total $0.5 million in excess reserves. Those 12 funds totaled $3.7 million in revenue and $3.4 million in expenses, equal to an operating surplus of $393,000 as a group. Cash funds that are materially contributing to a potential TABOR refund issue should be monitored through this process. It is not apparent that small funds as a group contribute enough to a potential TABOR problem to be identified in the excess reserves report.

6. Add repeal dates to all excluded cash funds listed in Section 24-75-402, (5), C.R.S., requiring excluded funds to be reconsidered and extended prior to their repeal. Excluded cash funds are listed in subsection (5) of the provision. Currently there is no time period for review or reconsideration about whether those funds should remain excluded. The recommendation is to set repeal dates for periods ranging from one to six years for the existing excluded cash funds. Those programs and departments would then be required to request repeal extensions for an additional seven years and justify continued exclusion from excess reserve limits.

7. Exclude the Division of Professions and Occupations Cash Fund from the requirements of Section 24-75-402, C.R.S., for seven years. This fund has been identified as having an excess reserve for all 13 years that the excess uncommitted reserves have been reported pursuant to statute. The fund receives revenues from and funds expenses for 33 boards and commissions located in the Division of Professions and Occupations. Generally, the perpetual excess has been identified due to the identification of smaller, individual programs within the larger cash fund that experience excess reserves in a given year. The advantage to the State for having a large, single cash fund for this purpose, is that it allows any new program to access start-up funds from the cash fund without requiring General Fund. Additionally, the larger cash fund enables all programs individually to maintain lower reserves, on the basis that the scale of the cash fund can absorb an operating deficit for a program in a given year. This allows relatively small, cash-funded licensing programs to operate with a lower reserve than might otherwise be required.

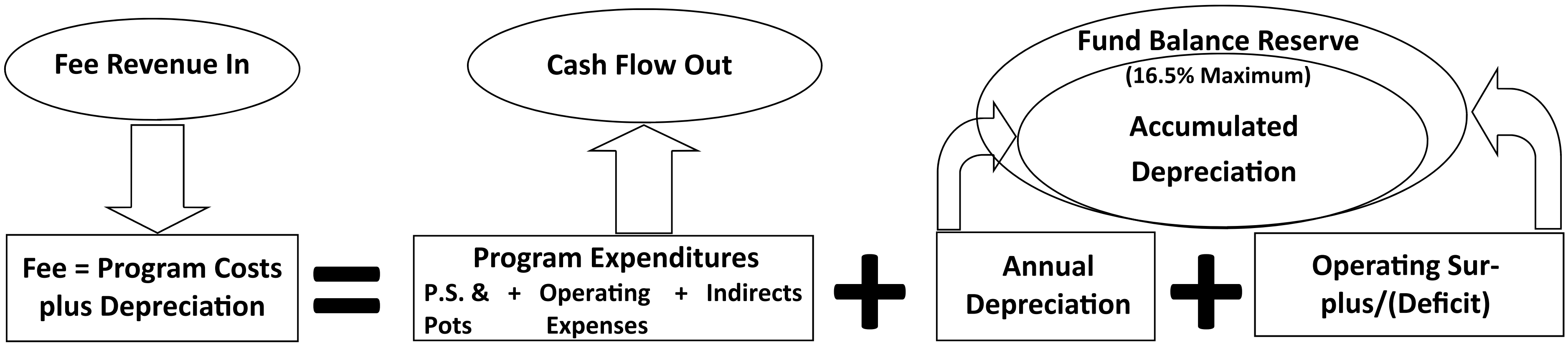
Enforcement/Disciplinary Policies:

8. Require the State Controller to restrict spending authority for a cash-funded program following the third consecutive year of excess reserves. The restriction would equal the lesser of the excess reserve or the maximum reserve, until a waiver is approved or the fund is in compliance.

Non-statutory Recommendation

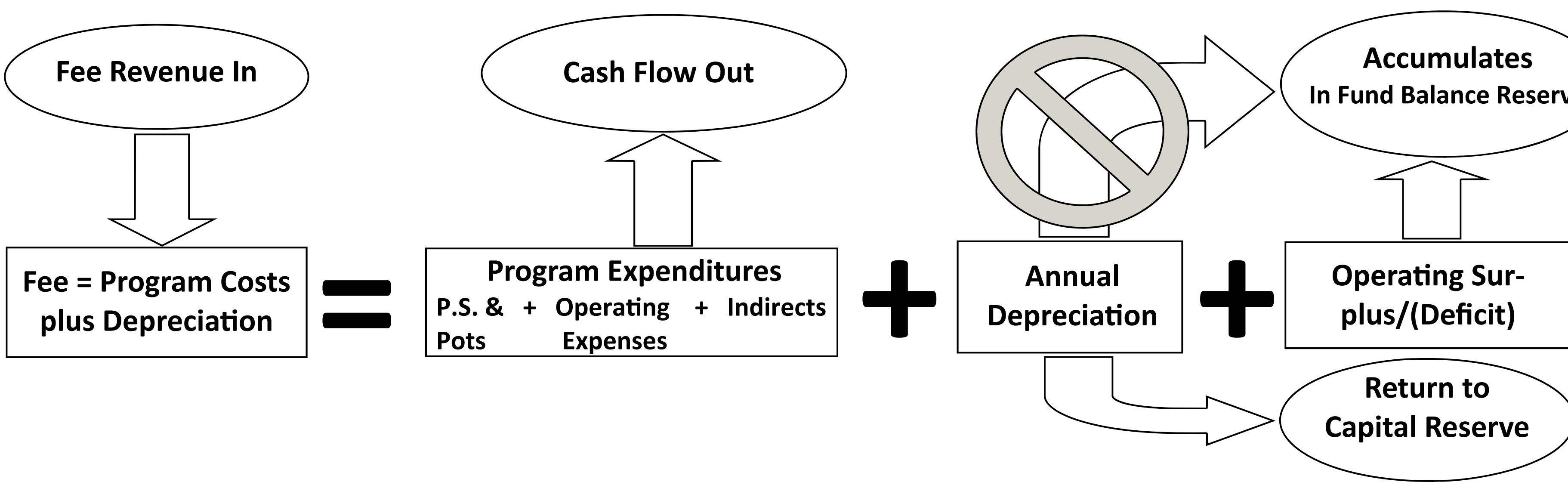
9. Through an annual request for information (RFI), the OSC would be asked to submit a comprehensive report that would include the uncommitted reserves of all cash funds, including excluded cash funds. While violations of the excess reserves requirements is important, in the interest of transparency and effective policy and management of cash funds as they relate to TABOR issues, excluded cash funds should be considered in comparison to included cash funds to better understand the scale of the TABOR problem across all cash funds.

Current Depreciation Subsidizes Operations Cash Flow Model



As accumulated depreciation increases over time, the fund balance reserve builds. Eventually fees are reduced to account for an excess reserve generated from capital.

Proposed Depreciation to Capital Reserve Cash Flow Model



Office of the State Auditor

Dianne E. Ray, CPA
State Auditor

MEMORANDUM

Date: October 31, 2014

To: Members of the Legislative Audit Committee

From: Dianne E. Ray, CPA, State Auditor

Re: Cash Funds Subcommittee Report

At the August 25, 2014, Legislative Audit Committee hearing, the Committee heard from five departments with cash funds that have been out of compliance with the cash funds statute, Section 24-75-402, C.R.S., for at least three consecutive years and were not anticipated to be in compliance as of June 30, 2014. A Subcommittee was formed to look specifically at these cash funds, and to discuss the possibility of the Committee sponsoring legislation to assist with and ensure compliance with Section 24-75-402, C.R.S. The Subcommittee met on September 15, 2014, to discuss future steps. This memo summarizes the discussion and suggested actions for each of the cash funds reviewed. Attending the Subcommittee meeting were Representative Ryden, Representative Nordberg, and Senator Steadman (representing the Joint Budget Committee).

Summary of Action Steps

Request Update at February 2015 LAC Hearing

According to the requirements of Section 24-30-207(3), C.R.S., the Office of the State Controller (OSC) provides a report on uncommitted reserves to the Office of State Planning and Budgeting (OSPB) and the Joint Budget Committee (JBC), on or before September 20, each fiscal year. The OSA is in the process of conducting the annual audit of the OSC-prepared cash funds uncommitted reserves report for Fiscal Year 2014. We expect to present the results of that audit to the Committee in February 2015.

For the following cash funds, the consensus of the Subcommittee was to invite the departments to the February LAC hearing if the cash funds were found to still be out of compliance with the cash funds statute as of June 30, 2014:

Department	Fund Name	Excess Uncommitted Reserve Balances as of June 30, 2013	Excess Uncommitted Reserve Balances as of June 30, 2014 (Unaudited)*
Personnel & Administration	Supplier Database Cash Fund	$ 259,252	$ 1,295,228
Public Health and Environment	Medical Marijuana Cash Fund	$ 12,542,567	$ 12,977,819
Regulatory Agencies	Mortgage Company Loan Originator Cash Fund	$ 310,309	$ 66,981
Revenue	Auto Dealers License Fund	$ 488,433	$ 618,714

** Source: Office of the State Controller Cash Funds Uncommitted Reserves Report as provided to the OSPB and the JBC on September 20, 2014, as required by Section 24-30-207(3), C.R.S.*

Pursue Possible Joint Budget Committee Actions

For the following funds, we researched whether the cash funds have corresponding general fund appropriations and the possibility of decreasing the general fund appropriations, requiring the departments to draw down more of the cash funds.

Department	Fund Name	Excess Uncommitted Reserve Balances as of June 30, 2013	Excess Uncommitted Reserve Balances as of June 30, 2014 (Unaudited)*
Public Health and Environment	Assisted Living Cash Fund	$ 302,604	$ 64,034
Revenue	Liquor Law Enforcement	$ 581,702	$ 704,504

** Source: Office of the State Controller Cash Funds Uncommitted Reserves Report as provided to the OSPB and the JBC on September 20, 2014, as required by Section 24-30-207(3), C.R.S.*

The Assisted Living Cash Fund increased fees charged for change of ownership of an existing licensed residence from $2,500 to $5,000 beginning in Fiscal Year 2010, which contributed to the increase in excess alternative reserves from Fiscal Year 2010 going forward. However, according to the Department, recent changes transferred balances from the Department of Public Health and Environment to the Department of Public Safety, which significantly reduced the excess uncommitted reserves in that fund for Fiscal Year 2014 to approximately $64,000 according to the amounts certified by the Office of the State Controller on September 20, 2014 (unaudited).

According to JBC staff, there is approximately $63 thousand appropriated from the general fund for the Home and Community Surveys Program, but not specifically related to the Assisted Living program funded by the cash fund.

The Liquor Law Enforcement program has a general fund appropriation of approximately $149,000.

Change Waiver Process

Section 24-75-402 (8), C.R.S., provides a process for a department to request a waiver of its target reserve requirement for a specific cash fund. Under the statute, a department must demonstrate a specific purpose for which the department needs to maintain uncommitted reserves in an amount greater than the target reserve for a specified, limited period of time. According to OSPB staff, a department must first submit a request for a waiver to the OSPB through its annual budget submission. If approved, the OSPB will notify the department that it may request a waiver through the JBC. To accompany that request, OSPB staff reports that they will then prepare a formal letter to the JBC that describes the requested waiver. Statute outlines that the department request the waiver from the JBC and that, if deemed appropriate and approved, the JBC recommend legislation to grant the waiver. Based on our research, the waiver process is rarely used. The Subcommittee discussed the possibility of moving the approval and recommended legislation processes to the LAC from the JBC. **This change would require legislative action.**

Establish Alternative Reserve

The alternative reserve process is designed to permanently establish a reserve higher than the 16.5 percent of expenditures allowed in statutes. For the two funds noted below, the Subcommittee discussed whether alternative reserves would be appropriate:

Department	Fund Name	Excess Uncommitted Reserve Balances as of June 30, 2013	Excess Uncommitted Reserve Balances as of June 30, 2014 (Unaudited)*
Natural Resources	Oil and Gas Conservation Cash Fund	$ 2,359,495	$ 2,998,563
Public Health and Environment	Newborn Genetics Cash Fund	$ 2,064,259	$ 2,022,921

** Source: Office of the State Controller Cash Funds Uncommitted Reserves Report as provided to the OSPB and the JBC on September 20, 2014, as required by Section 24-30-207(3), C.R.S.*

DNR - Oil and Gas Conservation Cash Fund

The Department of Natural Resources (DNR) requested and received a permanent increase to its alternative reserve for the Oil and Gas Conservation Cash Fund from $4 million to $6 million beginning with Fiscal Year 2015. The Subcommittee requested additional research related to the calculation of the Oil and Gas Conservation Cash Fund's fee revenue. For the Oil and Gas Conservation cash fund, fee revenue includes charges for services, including levy revenue, but does not include penalty revenues. Fee revenue in the cash fund increased in Fiscal Year 2014 primarily due to record high oil production and increases in oil prices. If the $6 million alternative reserve was in effect for Fiscal Year 2014 there would still be an excess uncommitted reserve of nearly $1 million.

CDPHE - Newborn Genetics Cash Fund

The Department indicated to the LAC in August that new tests recommended by the Department over time for inclusion of the newborn screening panel result in costs that can be significant. The Subcommittee discussed that such an alternative reserve might grant the Department greater flexibility in monitoring expenditures from year to year when new tests are implemented. The Department has indicated that they have determined an alternative reserve balance of 40 percent of expenditures would be appropriate. This would have increased the June 30, 2014, alternative reserve by approximately $1.5 million, to $2.6 million, thereby reducing the fund's excess uncommitted reserve for the year to just under $500,000. The Department believes that level will enable the Department to continue to operate normally while considering plans to adjust expenses or raise fees to accommodate new operating costs and to build the fund balance back up to the 40 percent level. **This change requires legislative action.**

Office of the State Auditor

Dianne E. Ray, CPA
State Auditor

MEMORANDUM

Date: August 11, 2014

To: Members of the Legislative Audit Committee

From: Dianne E. Ray, CPA, State Auditor

Re: Status Report - Cash Funds Uncommitted Reserves Report, Performance Audit, February 2014

As follow up to the February 28, 2014, Legislative Audit Committee hearing, the Committee sent letters to nine departments that have been out of compliance with the cash funds statute, Section 24-75-402, C.R.S., for three consecutive years or more, as outlined in the *Cash Funds Uncommitted Reserves Report, Fiscal Year Ended June 30, 2013, Statewide Audit, Performance Audit* (February 2014). The letters to the departments requested a status report as of August 1, 2014, indicating what actions the departments have taken to ensure the selected cash funds' compliance with Senate Bill 98-194.

Attached are the responses on the status of the cash funds as of August 1, 2014. Out of the nine departments, four report that the cash funds are still out of compliance. We have included the original letters for these four departments to provide background on each of their cash funds that have been out of compliance for three consecutive years or more. Representatives from the four departments will be at the hearing to discuss how they plan to bring the cash funds into compliance.

The table on the following page summarizes the status of the cash funds as reported by the departments. The second table provides information on alternative reserves, as defined in statute. An alternative reserve is an amount in excess of the basic 16.5 percent allowed to be retained by the department. The Oil and Gas Conservation Fund is the only cash fund of the 16 that has an alternative reserve.

State of Colorado
Cash Funds Out of Compliance for Three or More Consecutive Years
Balances as of June 30, 2013

Department	Fund Name	Excess Uncommitted Reserves - 2013	Expected Compliance @ June 30, 2014?	Projected Compliance
Human Services	Food Distribution Program Service	$ 42,016	Yes	N/A
Law	Collection Agency Board Cash Fund	$ 18,507	Yes	N/A
Natural Resources	Oil and Gas Conservation	$ 2,359,495	No	June 2015
Personnel & Administration	Supplier Database	$ 259,252	Yes	N/A
Public Health and Environment	Medical Marijuana Cash Fund	$ 12,542,567	No	June 2016
Public Health and Environment	Newborn Genetics	$ 2,064,259	No	N/A *
Public Health and Environment	Assisted Living Cash Fund	$ 302,604	No	June 2015
Public Health and Environment	Trauma System Cash Fund	$ 211,745	Yes **	N/A
Public Health and Environment	Home Care Agency Cash Fund	$ 12,648	Yes	N/A
Public Safety	Firefighter First Responder Cash Fund	$ 246,827	Yes	N/A
Regulatory Agencies	Division of Registrations	$ 1,079,678	No	N/A *
Regulatory Agencies	Mortgage Company Loan Originator Cash Fund	$ 310,309	No	June 2015
Revenue	Liquor Law Enforcement	$ 581,702	No	June 2016
Revenue	Auto Dealers License Fund	$ 488,433	No	June 2016
Revenue	Racing Cash Fund	$ 173,587	Yes	N/A
State Department	Notary Administration Cash Fund	$ 486,143	Yes	N/A
	Total	**$ 21,179,772**		

***No specific updated compliance date included in Department response.**

**** Department reported Fund will be out of compliance again as of June 30, 2015**

Source: Office of the State Auditor analysis of the *Cash Funds Uncommitted Reserves Report* for the Fiscal Year Ended June 30, 2013. Expected and projected compliance information provided by each department as of August 1, 2014.

State of Colorado

Cash Funds Out of Compliance for Three or More Consecutive Years

Balances as of June 30, 2013

Department	Fund Name	Uncommitted Reserves	16.5 % Target Reserve	Alternative Reserve	Statutory Reference for Alternative Reserve	Excess Uncommitted Reserves
Human Services	Food Distribution Program Service	$ 122,272	$ 80,256	N/A	-	$ 42,016
Law	Collection Agency Board Cash Fund	$ 103,627	$ 85,120	N/A	-	$ 18,507
Natural Resources	Oil and Gas Conservation	$ 6,359,495	N/A	$ 4,000,000	Section 34-60-122(b), C.R.S., Senate Bill 06-142 *	$ 2,359,495
Personnel & Administration	Supplier Database	$ 288,694	$ 29,442	N/A	-	$ 259,252
Public Health and Environment	Medical Marijuana Cash Fund	$ 12,958,115	$ 415,548	N/A	-	$ 12,542,567
Public Health and Environment	Newborn Genetics	$ 3,144,215	$ 1,079,956	N/A	-	$ 2,064,259
Public Health and Environment	Assisted Living Cash Fund	$ 491,417	$ 188,813	N/A	-	$ 302,604
Public Health and Environment	Trauma System Cash Fund	$ 276,443	$ 64,698	N/A	-	$ 211,745
Public Health and Environment	Home Care Agency Cash Fund	$ 207,447	$ 194,799	N/A	-	$ 12,648
Public Safety	Firefighter First Responder Cash Fund	$ 265,472	$ 18,645	N/A	-	$ 246,827
Regulatory Agencies	Division of Registrations	$ 1,702,479	$ 622,801	N/A	-	$ 1,079,678
Regulatory Agencies	Mortgage Company Loan Originator Cash Fund	$ 509,582	$ 199,273	N/A	-	$ 310,309
Revenue	Liquor Law Enforcement	$ 992,403	$ 410,701	N/A	-	$ 581,702
Revenue	Auto Dealers License Fund	$ 970,292	$ 481,859	N/A	-	$ 488,433
Revenue	Racing Cash Fund	$ 404,451	$ 230,864	N/A	-	$ 173,587
State Department	Notary Administration Cash Fund	$ 488,171	$ 2,028	N/A	-	$ 486,143
	Total	**$ 29,284,575**	**$ 4,104,803**	**$ 4,000,000**		**$ 21,179,772**

* House Bill 14-1077 increased the alternative reserve to $6 million effective for Fiscal Year ending June 30, 2015.

Source: Office of the State Auditor analysis of the *Cash Funds Uncommitted Reserves Report* for the Fiscal Year Ended June 30, 2013.

Cash Funds Status Report - Index

COLORADO
Department of Human Services

The Honorable Senator Steve King,Chair
Legislative Audit Committee
1525 Sherman Sherman St. 7th Floor
Denver, CO 80555

August 1, 2014

Dear Senator King:

In response to your request, the Department of Human Services would like to provide the Legislative Audit Committee with the following status report pertaining to the excess uncommitted reserve balance within the Food Distribution Cash Fund outlined in 26-1-121 (4)(b), C.R.S.(2013).

In FY 2012-13 the Food Distribution program sought to purchase software for the purpose of tracking inventory and fees for the National School Lunch Program. The purchase was not completed during that fiscal year due to a delay in the procurement process which resulted in a non-compliant excess uncommitted reserve balance. During FY 2013-14, the purchase was approved and the software procurement was completed. Additionally, the Department reduced fees collected from school districts on all Department of Defense fruit and vegetable purchases, resulting in reduced fee revenue.

The actual target alternative fee reserve balance must be equal to or greater than the uncommitted fee reserve balance for the purpose of the Food Distribution Cash Fund, this amount is $53,194. As a result of the increase in expenditures within the Food Distribution Cash Fund, the actual target/alternative fee reserve balance increased to $146,447 as of July 14, 2014 and is therefore in compliance with SB 98-194.

If you require further information or have any additional questions, please contact the Department's Budget and Policy Director, Sarah Sills, at Sarah.Sills@state.co.us or 303-866-2872

Sincerely,

Reggie Bicha
Executive Director

Cc: Senator Lucia Guzman, Vice-Chair, Legislative Audit Committee
Senator David Balmer
Representative Dan Nordberg

Representative Dianne Primavera
Representative Su Ryden
Representative Jerry Sonnenberg
Senator Lois Tochtrop
Representative Crisanta Duran, Chair, Joint Budget Committee
Crystal Dorsey, Office of the State Auditor
Kevin Neimond, Staff Analyst, Joint Budget Committee
Henry Sobanet, Director, Office of State Planning and Budgeting
Erick Scheminske, Deputy Director, Office of State Planning and Budgeting
Ann Renaud, Budget Analyst, Office of State Planning and Budgeting
Zach Pierce, Human Services Policy Advisor, Governor's Office
Nikki Hatch, Deputy Executive Director of Operations
Dee Martinez, Deputy Executive Director of Enterprise Partnerships
Melissa Wavelet, Director Office of Performance and Strategic Outcomes
Sarah Sills, Budget Director
Levetta Love, Director Office of Economic Security
Susan Beckman, Director, Office of Administrative Solutions
Jennifer Corrigan, Executive and Legislative Liaison

John W. Suthers
Attorney General
Cynthia H. Coffman
Chief Deputy Attorney General
Daniel D. Domenico
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

Administration Section

Ralph L. Carr
Colorado Judicial Center
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

July 28th, 2014

Office of the State Auditor
1525 Sherman Street, 7th Floor
Denver, CO 80203

RE: Compliance with SB98-194

Dear Crystal:

I am pleased to report that the fund balance for the Department of Law's Collection Agency Board Fund at the close of FY14 is $5,918.54. This amount is significantly under the 16.5% reserve limit and puts the fund in compliance with SB98-194. The Department has made great efforts to get the CAB fund into compliance with SB98-194, however the volatility of the industry and number of licensees has made this a very daunting challenge. Further the 16.5% limit on funds with less than a million dollars of expenditure is highly unreasonable and I have long advocated for an exemption of those funds from the SB98-194 limits.

The Department will work to further stay in compliance with SB98-194 going forward. If you have any questions please do not hesitate to call me.

Sincerely,

FOR THE ATTORNEY GENERAL
Hugh K. Wilson
Director of Administration

COLORADO
Department of Natural Resources

Executive Director's Office
1313 Sherman Street, Room 718
Denver, CO 80203

August 4, 2014

Kerri Hunter, Deputy State Auditor
Office of the State Auditor
State Services Building
1525 Sherman St., 7th Floor
Denver, CO 80203-1700

Dear Ms. Hunter,

To address the Oil and Gas Conservation Commission's excess cash fund balance starting in FY 2014-15, the Department supported HB 14-1077, which increased the cap on the uncommitted reserve balance from $4 million to $6 million, effective July 1, 2014. The Department will discuss additional steps with the Governor and General Assembly to ensure compliance with the new cap by the end of FY 2014-15. Although expenditures from the fund increased by over $3.5 million during FY 2013-14, compliance with the fund balance requirement could not be reached by June 30, 2014. This occurred for several reasons, including all-time high penalty revenues, most of which was received in the latter half of FY 2013-14; record level levy revenue in FY 2013-14, which resulted from higher than expected oil prices and production; and underspent appropriations, primarily due to vacancy savings. In addition, the Colorado Department of Public Health and Environment underspent its appropriations from the fund by about $186,000.

As of fiscal year ending June 30, 2014, the Oil and Gas Conservation and Environmental Response Fund's uncommitted reserve balance was $6,998,563. Therefore, the two-year average of the excess uncommitted reserves, the amount above the FY 2013-14 $4 million cap, is $2,679,029.

I plan to attend the August 25, 2014 Legislative Audit Committee meeting to discuss any additional questions you may have on this issue.

Sincerely,

M. K.

Mike King
Executive Director

State of Colorado

LEGISLATIVE AUDIT COMMITTEE
State Services Building - Seventh Floor
1525 Sherman Street
Denver, Colorado 80203

STEVE KING, CHAIR
Senator
LUCIA GUZMAN, VICE CHAIR
Senator
DAVID BALMER
Senator
DAN NORDBERG
Representative

DIANNE PRIMAVERA
Representative
SU RYDEN
Representative
JERRY SONNENBERG
Representative
LOIS TOCHTROP
Senator

March 5, 2014

Mike King, Executive Director
Department of Natural Resources
1313 Sherman Street, Room 718
Denver, CO 80203

Dear Director King:

The Legislative Audit Committee released the Cash Funds Uncommitted Reserves Performance Audit Report on February 25, 2014. The Committee is concerned that the cash fund shown below has been out of compliance with SB 98-194 for three consecutive years and had the following excess uncommitted reserve balances per fiscal year:

Fiscal Year	Oil and Gas Conservation
2011	$ 804,303
2012	$ 1,881,588
2013	$ 2,359,495

The Department provided the responses noted below in the past three years' cash funds audits, as taken from the Cash Funds Excess Uncommitted Reserves Report #2050-11, October 2011; #2050-12, February 2013; and #1344P, February 2014.

Fund Name: Oil and Gas Conservation
Fiscal Year 2011
Implementation Date: June 2012
The Oil & Gas Conservation Fund is out of compliance. Section 34-60-122, C.R.S., requires the commission to ensure "the two-year average of the unobligated portion of the fund does not exceed four million dollars." The uncommitted reserve amount for Fiscal Year 2010 and Fiscal Year 2011 was $3,330,644 and $4,804,303, respectively, which on average is $4,064,474. The Department has a budget request seeking additional full-time-equivalent staff and operating funding. Through the requested increases, annual expenditures are expected to grow by more than $500,000.

Fiscal Year 2012
Implementation Date: August 2013
The Oil and Gas Conservation Commission's (OGCC's) spending authority was increased by approximately $700,000 for Fiscal Year 2013. The budget increase included 7.0 FTE and 2 state vehicles. An additional 5.0 FTE and 4 state vehicles, at a total cost of $571,702, have been requested for Fiscal Year 2014. The OGCC is also expecting to fund a $1.3 million Air Pollutant Emissions and Dispersion Study commencing July 2013. Furthermore, during the 2012 legislative session several bills that would have required substantial staffing increases (up to 17 new FTE), were debated, but ultimately not passed. Some of this legislation is expected to be reintroduced during the 2013 session. The uncertainty in the results of the legislation has contributed to the agency's delay in purposefully reducing its revenue.

Additionally, the spot market for natural gas prices is near its lowest point in a decade, and when spot market prices are lower than the terms of long-term private gas sales contracts, to which the OGCC is not privy, actual levy revenues will exceed revenue forecasts. The OGCC may also consider a rulemaking suspending levy payments for a quarter if projections for commodity prices, production, and expenditures indicate the agency's fund balance will be strong enough to withstand reduced revenue.

Fiscal Year 2013
Implementation Date: June 2014
The Oil & Gas Conservation Fund has been over the target reserve for three consecutive years. Section 34-60-122(b), C.R.S., requires the Commission "Shall ensure that the two year average of the unobligated portion of the fund does not exceed four million dollars". The Oil & Gas Conservation Commission is expecting a significant increase in expenditures due to 2013 legislation, which added 19 new FTE and several large one-time projects. Expenditures are expected to increase from about $6.4 million in Fiscal Year 2013 to over $11 million in Fiscal Year 2014. This growth will significantly reduce the fund balance by the end of Fiscal Year 2014. In addition, the Department of Natural Resources is supporting House Bill 14-1077, which would raise the cap on the uncommitted reserve to $6 million, effective July 1, 2014.

We will be requesting a status report as of August 1, 2014, indicating what actions you have taken to ensure the Fund's compliance with SB 98-194.

Sincerely,

Steve King

Senator Steve King, Chair
Legislative Audit Committee

cc: Senator Lucia Guzman, Vice-Chair, Legislative Audit Committee
Senator David Balmer
Representative Dan Nordberg
Representative Dianne Primavera

Representative Su Ryden
Representative Jerry Sonnenberg
Senator Lois Tochtrop

Representative Crisanta Duran, Chair, Joint Budget Committee

COLORADO
Executive Director's Office
Department of Personnel
& Administration

1525 Sherman St.
Denver, CO 80203

July 29, 2014

Dianne Ray, CPA
State Auditor
Colorado Office of the State Auditor
1525 Sherman Street, 7th Floor
Denver, CO 80203

Dear Ms. Ray:

This letter is in response to the Legislative Audit Committee request for a status update to our response in the *Cash Funds Uncommitted Reserves Report, Fiscal Year Ended June 30, 2013, Statewide Performance Audit* released February 2014. In this report, the Supplier Database cash fund was found to be out of compliance with SB98-194 for four consecutive years.

As noted in our response, HB13-1184 combined both the Supplier Database Cash Fund and the E-Procurement account within the Supplier Database Cash Fund effective July 1, 2013. This combined fund will be used for implementing and supporting the E-Procurement process within State's newly implemented financial system, CORE. The Supplier Database cash fund has historically been funded through a nominal fee charged to vendors registered in the State BIDS system to bid on State contracts. Effective July 1, 2014, use of the BIDS system was replaced by Vendor Self Service, a module of CORE. As a result, the Department has eliminated the fee to view and bid on State solicitations. The Department fully anticipates that the fund will be in compliance with SB98-194 as of June 30, 2014.

Sincerely,

Kathy Nesbitt
Executive Director, DPA

cc: Kerri Hunter, Deputy State Auditor

COLORADO

Department of Public Health & Environment

Dedicated to protecting and improving the health and environment of the people of Colorado

August 1, 2014

Dianne E. Ray
Office of the State Auditor
State Services Building
1525 Sherman Street, 7th Floor
Denver, CO 80203-1700

RE: Follow Up to Cash Funds Uncommitted Reserves Report, Fiscal Year Ending June 30, 2013, Statewide Performance Audit

Dear Ms. Ray:

In response to the June 30, 2014 letter from the Office of the State Auditor regarding the *Cash Funds Uncommitted Reserves Report, Fiscal Year Ended June 30, 2013, Statewide Performance Audit* released February 2014, the Colorado Department of Public Health and Environment (CDPHE) is providing an updated status report on the five funds that were identified by your office as being out of compliance with SB 98-194 for three or more consecutive years. Below, the Department has identified the status of each of these funds, as well as what actions have been taken to date to ensure compliance with the requirement. Please note that, because the FY 2013-14 year-end-close process of the State's financial system is not yet finalized, only projected compliance time frames are provided.

Fund 121: Newborn Screening and Genetics Counseling Cash Fund

Status: The Fund is projected to come into compliance when several new tests are added to the newborn screening panel. The Department petitions the state Board of Health to add new tests to the panel as new tests are recommended for inclusion and approved by Discretionary Advisory Committee on Heritable Disorders in Newborns and Children and/or recommended by the Colorado Newborn Screening Advisory Committee. The significant costs associated with the addition of each new test, which can range from $350,000 to in excess of $1,000,000, requires that the Department maintain a cash balance in the Fund in excess of the 16.5% uncommitted cash reserve limitation.

Compliance Plan: Due to the significant, variable costs associated with adding tests to the newborn screening panel, the Department would like to explore exempting the Newborn Screening and Genetics Counseling Cash Fund from the uncommitted cash reserves requirements. The alternative is to reduce fees now, but when tests are proposed to be added to the panel, the fees would need to be dramatically increased to cover the costs for the new tests, and implementation of the new tests would be delayed until the funds are collected through the fee increase. The Department also anticipates that a variety of measures will contribute to bringing the Newborn Genetics Cash Fund closer to compliance with the uncommitted cash reserve requirements as follows:

- No Fee Increase - The Laboratory Services Division is holding fees at FY 2012-13 levels throughout FY 2013-14 and FY 2014-15 in order to reduce revenues to the Newborn Genetics Fund.
- Expenditure Increases - the following measures will increase expenditures out of the fund and help reduce excess cash reserve:
  - Within the next 12-24 months, the Laboratory Services Division anticipates bringing proposals to the Board of Health to add new tests to the newborn screening panel, in an effort to improve the quality of screening newborns in Colorado.
  - Reduction in vacancy savings by hiring and retaining program personnel.
  - Increased Operating Expenses related to increasing courier fees and pick-up locations; and
  - Medical Inflation increases approved by the JBC for FY 2014-15.

Fund 14V: Medical Marijuana Fund

Status: The fund is projected to be in compliance by the end of FY 2015-16.

Compliance Plan - CDPHE has initiated a variety of measures to draw down the excess uncommitted reserves in the Medical Marijuana Fund. Efforts to date are as follows:

- Fee reduction - The Colorado Board of Health (BOH) has reduced the application fee twice; in January 2012, from $90 to $35, and again in February 2014 from $35 to $15. This action will substantially decrease the amount of revenue to the fund.
  - Note: Revenue reduction efforts have been offset by revenue increases resulting from a greater number of program registrants since the introduction and sale of adult-use marijuana in January, 2014 thereby increasing cash revenues and contributing to delayed compliance.
- Budget Requests - CDPHE has worked with the Governor's Office to submit numerous budget requests for FY 2014-15 to use fund resources to support initiatives related to medical marijuana research, data management, and education. The following requests were approved by the General Assembly:
  - $10 million for marijuana research studies effective July 1, 2014 (the $10 million is exempt from the 16.5% reserve requirement through FY 2018-19 per SB 14-155); and
  - $1,117,284 for the Medical Marijuana Registration System (Capital Construction appropriation per HB 14-1336).
  - Note: A $250,000 request for marijuana youth education was not approved by the Colorado General Assembly resulting in a higher than anticipated fund balance in FY 2014-15.

Fund 246: Assisted Living Residence Fund

Status: The fund is projected to be in compliance by the end of FY 2014-15.

Compliance Plan - CDPHE implemented two changes to address the excess uncommitted reserves in the Assisted Living Residence Fund as follows:

- Fee Reduction - On January 1, 2011, CDPHE reduced licensure fees so the program could draw down the excess fund balance over a three-year period.
  - Note: Revenue reduction efforts have been offset by increases in the number of Assisted Living Residence inspections thereby increasing cash revenues and contributing to delayed compliance.
- Fund Transfer - In November 2013, the Department transferred $188,463 to the Department of Public Safety associated with the transfer of Life Safety Code staff.

- Increased Expenses -workload is increasing as the number of facilities applying for licensure has increased, requiring more inspections and technical assistance.

Fund 12A: Trauma System Fund

Status: The fund is projected to be in compliance by the end of FY 2013-14, but out of compliance again in FY 2014-15.

Compliance Plan - The Department would like to explore exempting this Fund from the excess uncommitted reserves limitation. The Trauma System Fund revenue is generated through fees collected from designated trauma facilities every three years. This results in a higher fund balance earlier in the three-year cycle, which is then drawn down over the remainder of the period. Because the three-year fee cycle begins again in FY 2014-15, the fund balance is projected to be out of compliance in FY 2014-15. The Department could modify the fee collection process to collect annual fees from trauma facilities and thereby remain in compliance with the 16.5% reserve requirement; however, this is a less efficient process for both the Department and the trauma facilities than the current collection of fees once every three years.

Fund 22R: Home Care Agency Fund

Status: The fund is projected to be in compliance by the end of FY 2013-14.

Compliance Plan - The Home Care Agency Fund was created in 2010 with phased-in licensure requirements over three years. The Department anticipates the fund to be in compliance through normal program operations.

Thank you for the opportunity to provide you with additional information related to these fund balances.

Sincerely,

Larry Wolk, MD, MSPH
Executive Director and Chief Medical Officer

State of Colorado

LEGISLATIVE AUDIT COMMITTEE
State Services Building - Seventh Floor
1525 Sherman Street
Denver, Colorado 80203

STEVE KING, CHAIR
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Representative
LOIS TOCHTROP
Senator

March 5, 2014

Dr. Larry Wolk, Executive Director
Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246

Dear Dr. Wolk:

The Legislative Audit Committee released the Cash Funds Uncommitted Reserves Performance Audit Report on February 25, 2014. The Committee is concerned that the cash funds shown below have been out of compliance with SB 98-194 for three or more consecutive years and had the following excess uncommitted reserve balances per fiscal year:

Fiscal Year	Newborn Genetics	Medical Marijuana[1]	Assisted Living Residence	Trauma System	Home Care Agency
2003	$ -	$ -	$ 307,280	$ -	$ -
2004	$ 322,335	$ 282	$ 382,317	$ $27,299	$ -
2005	$ 619,513	$ 16,170	$ 182,142	$ $37,244	$ -
2006	$ -	$ 23,018	$ 59,848	$ -	$ -
2007	$ -	$ 84,580	$ 81,393	$ $66,734	$ -
2008	$ -	$ 189,920	$ 33,287	$ $77,864	$ -
2009	$ -	$ 222,546	$ 60,746	$ $48,484	$ -
2010	$ 653,048	$ 4,127,911	$ 279,220	$ $25,923	$ -
2011	$ 1,992,418	$ 7,321,922	$ 472,596	$ $137,884	$ 24,378
2012	$ 2,330,296	$ 11,322,309	$ 311,202	$ $132,045	$ 254,091
2013	$ 2,064,259	$ 12,542,567	$ 302,604	$ $211,745	$ 12,648

[1]This fund was not reported with excess uncommitted reserves for the Fiscal Years 2004 through 2011 due to the Department's improper coding of revenue.

The Department provided the responses noted below in the past five years' cash funds audits, as taken from the Cash Funds Excess Uncommitted Reserves Report #2050, October 2009; #2050-10, November 2010; #2050-11, October 2011; #2050-12, February 2013; and #1344P, February 2014.

Fund Name: Newborn Genetics

Fiscal Year 2010

Implementation Date: June 2015

In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2010, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting. The Department requested a waiver for the excess uncommitted reserves for the Newborn Genetics Fund for which compliance is anticipated after June 30, 2013.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with SB 98-194 requirements.

Fiscal Year 2011

Implementation Date: June 2015

In accordance with Senate Bill 98-194, for all funds that are subject to Senate Bill 98-194 and exceeded the target reserve level on June 30, 2011, the Department provided a Schedule 9.A - Cash Funds Status, Schedule 9.B - Cash Fund Reserve Plan, and Schedule 9.C - Waiver, as applicable, to OSPB.

The Department has requested a waiver for the excess uncommitted reserves in the Newborn Genetics Fund. The Department must continue to maintain a fund balance of no less than $1 million in order to maintain compliance with the State Controller's requirements due to prior years' negative balances resulting from a 90-day receivable cycle. The fee was raised this year to cover new testing, but the Department does not anticipate raising the fee for the next several years unless the fund balance is in danger of dropping below the State Controller's Office's required amount.

The Department will continue to monitor revenues, expenditures, fund balances, and excess uncommitted reserves by assessing the submitted schedules and will continue to take necessary actions to bring the fund balances to or below the target or alternative reserves levels so that all cash funds will come into compliance with Senate Bill 98-194 requirements.

Fiscal Year 2012

Implementation Date: June 2015

In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2012, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The Department requested a waiver for the excess uncommitted reserves in the Newborn Genetics fund. The Department must continue to maintain a sufficient fund balance in order to maintain compliance with the State Controller due to prior years' negative balance resulting from a 90-day receivable cycle.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with SB 98-194 requirements.

<u>Fiscal Year 2013</u>
Implementation Date: June 2014
In accordance with Senate Bill 98-194, for all funds that are subject to Senate Bill 98-194 and exceeded the target reserve level on June 30, 2013, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The Department has requested a waiver for the excess uncommitted reserves in the Newborn Genetics Fund (Fund 121). The Department must continue to maintain a fund balance of no less than $1 million in order to maintain compliance with the State Controller's requirements due to prior-year's negative balances resulting from a 90-day receivable cycle. The fee was raised to cover new testing, but the Department does not anticipate raising the fee for the next several years unless the fund balance appears as if it may drop below the required amount.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with Senate Bill 98-194 requirements.

Fund Name: Medical Marijuana
<u>Fiscal Year 2012</u>
Implementation Date: June 2015
In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2012, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The amount of fees per applicant on the Medical Marijuana fund was reduced as of January 1, 2012 to bring revenue collections in line with program costs. Under the State Constitution, this fund can only be used for Medical Marijuana Registry related expenditures. Currently CDPHE does not have the spending authority that would allow us to reduce this excess balance.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash

funds will come into compliance with SB 98-194 requirements.

Fiscal Year 2013
Implementation Date: June 2014
In accordance with Senate Bill 98-194, for all funds that are subject to Senate Bill 98-194 and exceeded the target reserve level on June 30, 2013, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The Department is reviewing the applicant fee structure in the Medical Marijuana fund and will make the necessary adjustments in an effort to reduce this fund balance. Under the State Constitution, this fund can only be used for Medical Marijuana Registry related expenditures. Currently, CDPHE does not have the spending authority that would allow us to reduce this excess balance in any other manner.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with Senate Bill 98-194 requirements.

Fund Name: Assisted Living Residence
Fiscal Year 2009
Implementation Date: June 2010
In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2009, the Department provided a Schedule 9.A – Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C- Waiver to the Office of State Planning and Budgeting.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with SB 98-194 requirements.

Fiscal Year 2010
Implementation Date: June 2014
In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2010, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting. The Department anticipates the Assisted Living Residence Fund to be in compliance by June 30, 2011. The Department requested waivers for the excess uncommitted reserves for the Assisted Living Residence Fund, for which compliance is anticipated after June 30, 2013.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash

funds will come into compliance with SB 98-194 requirements.

Fiscal Year 2011
Implementation Date: June 2015
In accordance with Senate Bill 98-194, for all funds that are subject to Senate Bill 98-194 and exceeded the target reserve level on June 30, 2011, the Department provided a Schedule 9.A - Cash Funds Status, Schedule 9.B - Cash Fund Reserve Plan, and Schedule 9.C - Waiver, as applicable, to OSPB. The Department requested a waiver for the excess uncommitted reserves in the Assisted Living Residence Fund for which compliance is anticipated by June 30, 2015.

The Department will continue to monitor revenues, expenditures, fund balances, and excess uncommitted reserves by assessing the submitted schedules and will continue to take necessary actions to bring the fund balances to or below the target or alternative reserves levels so that all cash funds will come into compliance with Senate Bill 98-194 requirements.

Fiscal Year 2012
Implementation Date: June 2015
In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2012, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The Department requested a waiver for the excess uncommitted reserves in the Assisted Living Residence for which compliance is anticipated by June 30, 2014. The fee levels were reduced on January 1, 2011 in order to bring the fund into compliance.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with SB 98-194 requirements.

Fiscal Year 2013
Implementation Date: June 2014
In accordance with Senate Bill 98-194, for all funds that are subject to Senate Bill 98-194 and exceeded the target reserve level on June 30, 2013, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The Department has requested a waiver for the excess uncommitted reserves in the Assisted Living Residence Fund (Fund 246) for which compliance is anticipated by June 30, 2014. Reduced licensure fees have been implemented so CDPHE can draw down the excess fund balance over a three-year period.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash

funds will come into compliance with Senate Bill 98-194 requirements.

Fund Name: Trauma System
Fiscal Year 2009
Implementation Date: June 2012
In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2009, the Department provided a Schedule 9.A – Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C- Waiver to the Office of State Planning and Budgeting.

The Department requested waivers for the excess uncommitted reserves for the Funds for which we do not anticipate compliance by June 30, 2010. We anticipate compliance for the Trauma System Fund by June 30, 2012.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with SB 98-194 requirements.

Fiscal Year 2010
Implementation Date: June 2012
In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2010, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting. The Department anticipates the Trauma System Fund to be in compliance by June 30, 2012.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with SB 98-194 requirements.

Fiscal Year 2011
Implementation Date: June 2015
In accordance with Senate Bill 98-194, for all funds that are subject to Senate Bill 98-194 and exceeded the target reserve level on June 30, 2011, the Department provided a Schedule 9.A - Cash Funds Status, Schedule 9.B - Cash Fund Reserve Plan, and Schedule 9.C - Waiver, as applicable, to OSPB. The Department anticipates the Trauma System Fund to be in compliance by June 30, 2012.

The Department will continue to monitor revenues, expenditures, fund balances, and excess uncommitted reserves by assessing the submitted schedules and will continue to take necessary actions to bring the fund balances to or below the target or alternative reserves levels so that all cash funds will come into compliance with Senate Bill 98-194 requirements.

Fiscal Year 2012
Implementation Date: June 2015
In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2012, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The Trauma Center Designation Fund (Fund 12A) is issued for a three year period. Much of the designation fee revenue is collected during the first half of that three-year cycle. This results in a higher fund balance at that time, which is then drawn down over the remainder of the designation period.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with SB 98-194 requirements.

Fiscal Year 2013
Implementation Date: June 2014
In accordance with Senate Bill 98-194, for all funds that are subject to Senate Bill 98-194 and exceeded the target reserve level on June 30, 2013, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The Trauma Center Designation Fund (Fund 12A) is for fees collected for a three-year period. Much of the designation fee revenue is collected during the first half of that three-year cycle. This results in a higher fund balance at that time, which is then drawn down over the remainder of the designation period.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with Senate Bill 98-194 requirements.

Fund Name: Home Care Agency
Fiscal Year 2011
Implementation Date: June 2015
In accordance with Senate Bill 98-194, for all funds that are subject to Senate Bill 98-194 and exceeded the target reserve level on June 30, 2011, the Department provided a Schedule 9.A - Cash Funds Status, Schedule 9.B - Cash Fund Reserve Plan, and Schedule 9.C - Waiver, as applicable, to OSPB. The Department anticipates the Home Care Agency Fund to be in compliance by June 30, 2012.

The Department will continue to monitor revenues, expenditures, fund balances, and excess uncommitted reserves by assessing the submitted schedules and will continue to take necessary actions to bring the fund balances to or below the target or alternative reserves levels so that all cash funds will come into compliance with Senate Bill 98-194 requirements.

Fiscal Year 2012
Implementation Date: June 2014
In accordance with SB 98-194, for all funds that are subject to SB 98-194 and exceeded the target reserve level on June 30, 2012, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The Licensure of Home Care Agencies Fund was created in 2010 with phased-in licensure requirements over three years. The Department anticipated the fund to be in compliance by June 30, 2014.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with SB 98-194 requirements.

Fiscal Year 2013
Implementation Date: June 2014
In accordance with Senate Bill 98-194, for all funds that are subject to Senate Bill 98-194 and exceeded the target reserve level on June 30, 2013, the Department provided a Schedule 9.A - Cash Fund Status, Schedule 9.B – Cash Fund Reserve Plan and Schedule 9.C - Waiver, as applicable, to the Office of State Planning and Budgeting.

The Licensure of Home Care Agencies Fund was created in 2010 with phased-in licensure requirements over three years. The Department anticipated the fund to be in compliance by June 30, 2014.

The Department will continue to monitor revenues, expenditures, fund balances and excess uncommitted reserves by assessing the submitted Schedules and continue to take necessary actions to bring the fund balances to or below the target or alternative reserves so that all cash funds will come into compliance with Senate Bill 98-194 requirements.

We will be requesting a status report as of August 1, 2014, indicating what actions you have taken to ensure the Funds' compliance with SB 98-194.

Sincerely,

Sen. Steve King

Senator Steve King, Chair
Legislative Audit Committee

cc: Senator Lucia Guzman, Vice-Chair, Legislative Audit Committee
Senator David Balmer

Representative Dan Nordberg
Representative Dianne Primavera
Representative Su Ryden
Representative Jerry Sonnenberg
Senator Lois Tochtrop

Representative Crisanta Duran, Chair, Joint Budget Committee

COLORADO
Department of Public Safety

Executive Director's Office
700 Kipling Street, Suite 1000
Lakewood, CO 80215

August 4, 2014

Ms. Crystal Dorsey, Local Govt Audit Mgr
Office of the State Auditor
1525 Sherman Street, 7th Floor
Denver, CO 80203

Crystal,

This letter is in response to a letter Kerri Hunter, Deputy State Auditor sent to our former Executive Director, James H. Davis on June 30, 2014 requesting a status report regarding compliance of the above referenced fund with CRS 24-75-402 (Cash Funds-Limit on Uncommitted Reserves).

I would like to recall for you the reasons why the Firefighter/First Responder Fund was not in compliance in prior years which we highlighted in our responses to audit findings on this topic. The fund accumulated excess reserves to develop and acquire a database system to manage certifications of fire professionals and track licenses issued by various programs. Due to some glitches in the procurement process, the vendor selected did not perform and we had to restart the project from scratch. This added several years and resulted in unintended noncompliance with CRS 24-75-402. Our Department appreciates the patience we received from the Office of the State Auditor in resolving this important issue.

Based on our calculations, the Uncommitted Reserve is $60,334 and Target Reserve is $72,230. CRS 24-75-402 defines Excess Uncommitted Reserve as the amount by which the Uncommitted Reserve exceeds the Target Reserve. Since, the target reserve exceeds the uncommitted reserve, Fund 203-Firefighter First Responder Fund is in compliance with CRS 24-75-402.

I discussed these calculations with Karoline Clark from the Office of the State Controller and they match her preliminary estimate.

Attached are the following for your review:

- Comparative Balance Sheet for Fund 203 at June 30, 2014
- Statement of Revenue and Expense for Fund 203 for the Year Ending June 30, 2014.
- Computation of Uncommitted Reserve and Target Reserve at June 30, 2014.
-

Please do not hesitate to contact me at (303) 239-4489 or tom.jagow@state.co.us if you have any questions.

Sincerely,

Thomas J. Jagow

Thomas J. Jagow, Controller

STATE OF COLORADO 1876

STATE OF COLORADO
COLORADO FINANCIAL REPORTING SYSTEM
COMPARATIVE BALANCE SHEET BY FUND
FOR STATE FISCAL YEAR 2014 - AS OF 06/30/14 FOR PERIOD 13

AGENCY CAT: R DEPARTMENT OF PUBLIC SAFETY
AGENCY CLASS: RA DEPARTMENT OF PUBLIC SAFETY

AGENCY: RAA DEPARTMENT OF PUBLIC SAFETY
FUND: 203 FIREFIGHTER FIRST RESP HAZMAT

	CURRENT YEAR (2014)	PRIOR YEAR (2013)
ASSETS		
CASH AND CASH EQUIVALENTS		
OPERATING CASH	68,204.48	278,254.67
RECEIVABLES		
ACCOUNTS RECEIVABLE - OTHER	23,005.00	19,410.00
ALLOWANCE FOR A/R - OTHER	9,311.00-	4,429.00-
OTHER CURRENT ASSETS		
PREPAID EXPENSES - GENERAL	0.00	129.00
UNDISTRIBUTED CHARGES -OTHER	0.00	0.00
TOTAL ASSETS	81,898.48	293,364.67
LIABILITIES		
PAYABLES		
WARRANTS PAYABLE	0.00	0.00
VOUCHERS PAYABLE	8,481.85	8,909.24
ACCOUNTS PAYABLE -OTHER	511.27	3,036.51
ACCRUED LIABILITIES		
ACCRUED PAYROLLS PAYABLE	11,226.92	13,201.77
ACCRUED EXPENSE -OTHER	0.00	111.95
DEFERRED REVENUE		
UNDISTRIBUTED RECEIPTS	0.00	0.00
TOTAL LIABILITIES	20,220.04	25,259.47
FUND EQUITY		
FUND BALANCE		
COMMITTED FOR ENCUMBRANCES	0.00	0.00
FB UNASSIGNED	61,678.44 (A)	268,105.20
TOTAL FUND EQUITY	61,678.44	268,105.20
TOTAL LIABILITIES AND FUND EQUITY	81,898.48	293,364.67

SEE ACCOMPANYING NOTES TO FINANCIAL STATEMENTS

(A) Fund Balance

AGENCY CAT: R DEPARTMENT OF PUBLIC SAFETY
AGENCY CLASS: RA DEPARTMENT OF PUBLIC SAFETY

AGENCY: RAA DEPARTMENT OF PUBLIC SAFETY
FUND: 203 FIREFIGHTER FIRST RESP HAZMAT

		CURRENT PERIOD	FISCAL YEAR-TO-DATE
REVENUES (REVENUE SOURCE)			
	SUB-REVENUE SOURCE		
4500	OTHER PUBLIC SAFETY SVC FEES		
		0.00	179,266.35
	3C FS CERTIFICATION	0.00	48,445.00
5208	CREDIT CARD FEES NONEXEMPT	0.00	1,418.16-
5900	INTEREST INCOME	0.00	2,653.95
830A	ACCOUNT PAYABLE REVERSIONS	0.00	2,372.12
830B	REIMBURSEMENT PRIOR YR EXP	0.00	13.60
	TOTAL REVENUES	0.00	231,332.86
EXPENSES (OBJECT OF EXPENDITURE)			
	SUB-OBJECT		
EZRA	IC RE CDPS INTERNAL	0.00	3,732.00
1110	SPS REGULAR FT WAGES	0.00	89,122.99
1120	SPS TEMPORARY FT WAGES	0.00	5,353.92
1130	SPS OVERTIME WAGES	0.00	227.42
1140	SPS ANNUAL LEAVE PAYMENTS	0.00	1,007.29
1510	SPS DENTAL INSURANCE	0.00	663.88
1511	SPS HEALTH INSURANCE	0.00	7,544.99
1512	SPS LIFE INSURANCE	0.00	155.91
1513	SPS DISABILITY	0.00	158.05
1520	SPS FICA-MEDICARE CONTRIBUTION	0.00	1,360.80
1522	SPS PERA	0.00	9,525.85
1524	SPS PERA-AMORT EQUAL DISBURSMT	0.00	3,413.11
1525	SPS PERA-SUPPL AMORT EQUAL DIS	0.00	3,093.22
1532	SPS UNEMPLOYMENT COMPENSATION	0.00	5,508.00
1920	PERSONAL SVCS - PROFESSIONAL	0.00	7,450.00
1962	PERSONAL SVCS- IT - CONSULTING	0.00	173,272.00
2254	RENTAL OF MOTOR VEHICLES	0.00	377.32
2259	PARKING FEE REIMBURSEMENT	0.00	38.05
2263	RENTAL OF IT EQUIP - OTHER	0.00	960.00
2510	IN-STATE TRAVEL	382.44	1,774.71
2512	IN-STATE PERS TRAVEL PER DIEM	0.00	31.00
2513	IN-STATE PERS VEHICLE REIMBSMT	0.00	243.00
2520	IN-STATE TRAVEL/NON-EMPLOYEE	0.00	1,090.68

B24

AGENCY: RAA DEPARTMENT OF PUBLIC SAFETY
FUND: 203 FIREFIGHTER FIRST RESP HAZMAT

AGENCY CAT: R DEPARTMENT OF PUBLIC SAFETY
AGENCY CLASS: RA DEPARTMENT OF PUBLIC SAFETY

EXPENSES (OBJECT OF EXPENDITURE)

SUB-OBJECT

		CURRENT PERIOD	FISCAL YEAR-TO-DATE
2523	IS/NON-EMPL - PERS VEH REIMB	0.00	804.36
2530	OUT-OF-STATE TRAVEL	0.00	2,534.78
2531	OS COMMON CARRIER FARES	0.00	1,747.15
2540	OUT-OF-STATE TRAVEL/NON-EMPL	0.00	75.00
2630	COMM SVCS FROM DIV OF TELECOM		
		0.00	900.00
20	COMM -TOLL CALLS	40.92-	135.87
2631	COMM SVCS FROM OUTSIDE SOURCES		
		0.00	3,147.63
10	CELL PHONE COST	0.00	46.88
15	CELL PHONE AIR TIME	0.00	112.01
2680	PRINTING/REPRODUCTION SERVICES	0.00	4,081.53
2681	PHOTOCOPY REIMBURSEMENT	0.00	33.54
2820	OTHER PURCHASED SERVICES	0.00	30.00
2831	STORAGE-PUR SERV	0.00	1,690.25
3112	AUTOMOTIVE SUPPLIES	0.00	4.30
3113	CLOTHING AND UNIFORM ALLOWANCE	0.00	681.37
3116	NONCAP IT - PURCHASED PC SW	0.00	92,786.10
3120	BOOKS/PERIODICALS/SUBSCRIPTION	0.00	215.91
3121	OFFICE SUPPLIES	0.00	3,765.49
3123	POSTAGE	0.00	2,030.46
3124	PRINTING/COPY SUPPLIES	0.00	410.99
3128	NONCAPITALIZED EQUIPMENT	0.00	36.78
3950	GASOLINE	0.00	52.52
4120	BAD DEBT EXPENSE	4,882.00	4,882.00
4140	DUES AND MEMBERSHIPS	0.00	718.00
4170	MISCELLANEOUS FEES AND FINES	0.00	163.00
4180	OFFICIAL FUNCTIONS	0.00	338.61
4220	REGISTRATION FEES	0.00	230.90
	TOTAL EXPENSES	5,223.52	437,759.62 ③
	NET INCOME FOR FUND 203 FIREFIGHTER FIRST RESP HAZMAT	5,223.52-	206,426.76-

① Non-Fee Revenue
② Total Revenue
③ Total Expenditures

Colorado Department of Public Safety
Fund 203-Firefighter First Responder Fund
Computation of Uncomitted Reserve and Target Reserve
June 30, 2014

Uncomitted Reserve:			
Fund Balance-June 30, 2014 (MCR 01)			61,678.44
Less:			
Long -Term Assets Credited to Fund		-	
Previously Approrpiated Fund Balance for Capital Construction or Multiyear Purposes		-	
Non-Monetary Assets Credited to the Fund		-	
Estimated Portion of Fund Balance derived from Non-Fee Reveunue Sources:			
Total Non-Fee Revenue	5,039.67		
Total Revenue	231,332.86		
Percentrage of Non-Fee Revenue	2.18%		
Portion of Fund Balance Attributable to Non-Fee Revenue ($61,678.44 x 1.57%)		1,343.69	
Total Deductions			(1,343.69)
Uncomitted Reserves-June 30, 2014			60,334.75
Target Reserve:			
Expenditures from the Fund (Per MCR 02)			437,759.62
Target Reserve Percentage (Per CRS 24-75-402)			16.50%
Target Reserve-June 30, 2014			72,230.34

Department of Regulatory Agencies

Executive Director's Office
Barbara J. Kelley
Executive Director

John W. Hickenlooper
Governor

MEMORANDUM

To: Members of the Legislative Audit Committee

From: Barbara J. Kelley, Department of Regulatory Agencies

Re: Requested Information on Cash Funds Uncommitted Reserves

Date: August 1, 2014

By way of response to the Legislative Audit Committee's March 5, 2014, letter expressing concern over the compliance of two of DORA's 25 cash funds with S.B. 98-194, the Department wishes to provide the following status report as to those two particular funds. The Department wishes to reaffirm that it absolutely agrees that fees should be managed and monitored to ensure sufficient revenue annually to support programs as the law requires, while also ensuring that fund balances remain within excess reserve limits annually as also required by law. The Department continues to agree with audit recommendations on this subject, and believes the high ratio of its numerous cash funds that are in compliance with 98-194 reflects this commitment.

Mortgage Company and Loan Originator Cash Fund. With regard to the Mortgage Company and Loan Originator Cash Fund, significant fee reductions beginning in FY 11-12 (primarily a reduction in the broker renewal fee from $305 to $60) have aggressively reduced fund balance each year such that compliance was expected by June 2014. This fee has remained in place through FY 13-14 to help resolve fund balance. In fact, fee revenues have brought in only 65% of costs for the last two years, which has significantly contributed to the sharp reduction in the excess reserve balance. However, during FY 13-14 the Division identified opportunities and efficiencies to reduce expenditures by almost 10% for the program based on workload. While this directly benefits fee payers who support the cost of the program with lower fees into the future, the reduced level of expenditures did have the effect of reducing the SB 98-194 limit for FY 13-14 such that compliance is now expected early in FY 14-15. Recent actual fund balances for the fund and projected fund balances attributable to fees are shown below in **Table 1** below. Precise figures that calculate the amount of reserve attributable to fees for actual FY 13-14 will be available on the State Controller's excess balance report in August.

1560 Broadway, Suite 1550
Fax 303.894.7885
Denver, CO 80202
www.dora.state.co.us
Phone 303.894.7855
V/TDD 711

Consumer Protection

Table 1

Mortgage Company and Loan Originator Cash Fund	Actual FY 11-12	Actual FY 12-13	Projected FY 13-14	Projected FY 14-15
Beginning Fund Balance	$1,071,944	$1,046,347	$539,900	$258,533
Revenue	$1,161,159	$701,265	$799,821	$917,736
Expenditures	$1,186,756	$1,207,712	$1,081,188	$1,081,188
Ending Fund Balance	**$1,046,347**	**$539,900**	**$258,533**	**$95,081**
Fund Balance Percent of Expenditures	*88.2%*	*44.7%*	*23.9%*	*8.8%*

Division of Professions and Occupations Cash Fund. By way of background, the Division of Professions and Occupations (DPO) Cash Fund (Cash Fund) is a single fund created by the General Assembly to support the revenue and expenditures of over 40 different professional licensing boards and programs within DPO. The Department continually monitors these programs, which are components of the single, legal Cash Fund. By law, fees for each program must be set separately to approximate the costs of administration and implementation of that program. As such, the Department routinely adjusts program fees individually to address fluctuations in revenue and expenditures individually. Following any renewal period, an individual program component may yield a positive balance or experience a deficit against actual revenues and expenditures. Recent actual fund balances for the entire Cash Fund and projected fund balances attributable to fees are shown below in **Table 2**. Precise figures that calculate the amount of reserve attributable to fees for actual FY 13-14 will be available on the State Controller's excess balance report in August.

Table 2

Division of Professions and Occupations Cash Fund	Actual FY 11-12	Actual FY 12-13	Projected FY 13-14	Projected FY 14-15
Beginning Fund Balance	$4,631,946	$3,489,488	$2,469,759	$3,678,960
Revenue	$21,929,212	$21,959,019	$25,249,230	$24,233,527
Expenditures	$23,071,670	$22,978,748	$24,040,029	$24,939,695
Ending Fund Balance	**$3,489,488**	**$2,469,759**	**$3,678,960**	**$2,972,792**
Fund Balance Percent of Expenditures	*15.1%*	*10.7%*	*15.30%*	*11.92%*

The audit's findings actually refer to the program components rather than the Cash Fund itself. The audit's 2013 recommendation refers to only 5 of the 32 components within the fund that are listed on the financial system, none of which has been cited individually for more than a few consecutive years. Fee adjustments routinely bring program balances down in response to higher than expected revenue or lower than projected expenditures. However, it is the overall Cash Fund that is subject to fund balance limitations in SB 98-194.

The Department is presently working to identify methodologies in allocating and tracking division and program costs which allows the Department to manage the overall Cash Fund within the applicable legal constraints, not only to avoid excessive or insufficient fees, but also to pursue strategies to minimize abrupt fluctuations in fee assessments that can sometimes compound balance problems in out-years. The Department must manage this process in a way that continually meets statutory requirements while also achieving some consistency in fee levels assessed to regulated professionals across the various programs. We are hopeful that migrating to the State's new financial system will enable the separate tracking of revenue/expenses without creating confusion at the Cash Fund level, something that COFRS was not equipped to do.

The Department looks forward to continuing transparency in its operations and is happy to provide any further information.

CC: Henry Sobanet, Director, OSPB
Justin Lippard, Budget Director, DORA

State of Colorado

LEGISLATIVE AUDIT COMMITTEE
State Services Building - Seventh Floor
1525 Sherman Street
Denver, Colorado 80203

March 5, 2014

Barbara Kelley, Executive Director
Department of Regulatory Agencies
1560 Broadway, Suite 1500
Denver, CO 80202

Dear Director Kelley:

The Legislative Audit Committee released the Cash Funds Uncommitted Reserves Performance Audit Report on February 25, 2014. The Committee is concerned that the cash funds shown below have been out of compliance with SB 98-194 for three to thirteen consecutive years and had the following excess uncommitted reserve balances per fiscal year:

Fiscal Year	Divisions of Professions and Occupations[1]	Mortgage Broker
2001	$ 267,753	$ -
2002	$ 738,248	$ -
2003	$ 761,333	$ -
2004	$ 1,325,300	$ -
2005	$ 2,082,903	$ -
2006	$ 2,487,140	$ -
2007	$ 1,636,309	$ -
2008	$ 901,928	$ -
2009	$ 842,311	$ 182,873
2010	$ 1,607,282	$ -
2011	$ 1,956,303	$ 760,846
2012	$ 1,379,063	$ 794,600
2013	$ 1,079,678	$ 310,309

[1]The Divisions of Professions and Occupations Cash Fund was known as the Division of Registrations Cash Fund for Fiscal Years 2001 through 2011.

The Department provided the responses noted below in the past five years' cash funds audits, as taken from the Cash Funds Excess Uncommitted Reserves Report #2050, October 2009; #2050-10, November 2010; #2050-11, October 2011; #2050-12, February 2013; and #1344P, February 2014.

Fund Name: Divisions of Professions and Occupations

Fiscal Year 2009

Implementation Date: June 2011

In the case of the Division of Registrations Cash Fund, the individual 31 sub-accounts of this fund routinely require adjustment for both deficit and excess fund balance, and fees for each non-compliant board are being modified accordingly. Fee adjustments are being made for the eight boards mentioned in the recommendation to achieve compliance as soon as possible. Passenger Tramway Safety and Chiropractic Boards are expected to achieve compliance by June 30, 2010; Massage Therapists, Optometric, Pharmacy, Office of Boxing, Nursing Home Administrators and Outfitters Boards are expected to achieve compliance by June 30, 2011.

Fiscal Year 2010

Implementation Date: June 2011 to June 2012

The Department agrees with the recommendation and continually monitors all fund balances for compliance with SB 98-194's limitations on excess uncommitted reserves as soon as possible. While license renewal cycles, fluctuations in licensee population, and expenditure trends can in some cases prevent immediate compliance, in all cases fee adjustments are made at the earliest available opportunity to bring the fund into compliance as quickly as possible. In summary, compliance will occur for the Division of Registrations Cash Fund in June 2011 (five of thirteen boards), June 2012 (seven of thirteen boards), and June 2013 (one of thirteen boards).

Fiscal Year 2011

Implementation Date: June 2012 to June 2013

The Department agrees with the recommendation and continually monitors all fund balances for compliance with Senate Bill 98-194's limitations on excess uncommitted reserves as soon as possible. While license renewal cycles, fluctuations in licensee population, and expenditure trends can, in some cases, prevent immediate compliance, in all cases fee adjustments are made at the earliest available opportunity to bring the funds into compliance as quickly as possible. In summary, compliance will occur for the Division of Registrations Cash Fund in June 2012 (nine of 13 boards) and June 2013 (four of 13 boards). For the Division of Registrations Cash Fund (nine of 13 boards), fee-setting and/or statutory transfer authority will enable resolutions in the current fiscal year. For the Division of Registrations Cash Fund (four of 13 boards), compliance is expected in the next fiscal year.

Fiscal Year 2012

Implementation Date: June 2013 to June 2014

The Department agrees with the recommendation and continually monitors all fund balances for compliance with Senate Bill 98-194's limitations on excess uncommitted reserves as soon as possible. While license renewal cycles, fluctuations in licensee population, and expenditure trends can, in some cases, prevent immediate compliance, in all cases fee adjustments are made at the earliest available opportunity to bring the funds into compliance as quickly as possible. In summary, compliance will occur for the Division of Professions and Occupations Cash Fund* by June 2013 (5 of 7 boards) and June 2014 (2 of 7 boards). (*Formerly the Division of Registrations Cash Fund). Fee-setting determinations will enable resolutions in Fiscal Year 2013 for the Division of Professions and Occupations (5 of 7 boards). Fee-setting determinations will enable resolutions in Fiscal Year 2014 for the Division of Professions and Occupations (2 of 7 boards).

Fiscal Year 2013
Implementation Date: June 2014 to June 2015
The Department agrees with the recommendation and continually monitors all fund balances for compliance with Senate Bill 98-194's limitations on excess uncommitted reserves as soon as possible. While license renewal cycles, fluctuations in licensee population, and expenditure trends can in some cases prevent immediate compliance, in all cases fee adjustments are made at the earliest available opportunity to bring the funds into compliance as quickly as possible. In summary, compliance will occur for Division of Professions and Occupations Cash Fund in June 2014 (2 of 5 boards) and June 2015 (3 of 5 boards). Fee-setting determinations will enable resolutions in Fiscal Year 2014 for the Division of Professions and Occupations (2 of 5 boards) For Division of Professions and Occupations (3 of 5 boards) fee-setting determinations will enable resolutions in Fiscal Year 2015.

Fund Name: Mortgage Broker
Fiscal Year 2011
Implementation Date: June 2013
The Department agrees with the recommendation and continually monitors all fund balances for compliance with Senate Bill 98-194's limitations on excess uncommitted reserves as soon as possible. While license renewal cycles, fluctuations in licensee population, and expenditure trends can, in some cases, prevent immediate compliance, in all cases fee adjustments are made at the earliest available opportunity to bring the funds into compliance as quickly as possible. In summary, compliance will occur for the Mortgage Broker Cash Fund in June 2013.

Fiscal Year 2012
Implementation Date: June 2014
The Department agrees with the recommendation and continually monitors all fund balances for compliance with Senate Bill 98-194's limitations on excess uncommitted reserves as soon as possible. While license renewal cycles, fluctuations in licensee population, and expenditure trends can in some cases prevent immediate compliance, in all cases fee adjustments are made at the earliest available opportunity to bring the funds into compliance as quickly as possible. In summary, compliance will occur for the Mortgage Broker Cash Fund in June 2014.Fee-setting determinations will enable resolutions in Fiscal Year 2014 for the Mortgage Broker Cash Fund

Fiscal Year 2013
Implementation Date: June 2014
The Department agrees with the recommendation and continually monitors all fund balances for compliance with Senate Bill 98-194's limitations on excess uncommitted reserves as soon

as possible. While license renewal cycles, fluctuations in licensee population, and expenditure trends can in some cases prevent immediate compliance, in all cases fee adjustments are made at the earliest available opportunity to bring the funds into compliance as quickly as possible. In summary, compliance will occur for the Mortgage Broker Cash Fund in June 2014. Fee-setting determinations will enable resolutions in Fiscal Year 2014 for the Mortgage Broker Cash Fund.

We will be requesting a status report as of August 1, 2014, indicating what actions you have taken to ensure the Funds' compliance with SB 98-194.

Sincerely,

Sen Steve King

Senator Steve King, Chair
Legislative Audit Committee

cc: Senator Lucia Guzman, Vice-Chair, Legislative Audit Committee
Senator David Balmer
Representative Dan Nordberg
Representative Dianne Primavera
Representative Su Ryden
Representative Jerry Sonnenberg
Senator Lois Tochtrop

Representative Crisanta Duran, Chair, Joint Budget Committee

COLORADO
Department of Revenue
Executive Director's Office
Physical Address:
1375 Sherman Street
Denver, CO 80203

Mailing Address:
P.O. Box 17087
Denver, CO 80217-0087

August 1, 2014

Senator Steve King
Legislative Audit Committee
State Services Building
1525 Sherman St., 7th Floor
Denver, CO 80203

Dear Senator King:

In response to your request, we have prepared an update regarding Cash Funds Uncommitted Reserves listed in the performance audit report released on February 25, 2014. The following provides an explanation of the actions the Department of Revenue has taken to ensure compliance with S.B. 98-194 for the Racing Cash Fund, the Auto Dealer License Fund, and the Liquor Enforcement Cash Fund.

Racing Cash Fund, 12-60-205(1), C.R.S.

The Division of Racing Events sets and collects fees from licensees for the Racing Cash Fund based upon the projected direct and indirect expenses of the division, current cash and fund balances, and reserve requirements as provided in 24-75-402, C.R.S. The division monitors expenditures and revenue collections regularly throughout the year and adjusts fees where and when possible.

The annual fee setting process begins with the projected year-end fund balance for the current year, less the projected direct and indirect expenses for the new fiscal year to determine the amount of revenue necessary to ensure sufficient fund and cash balances for the coming year.

Fees are due on a monthly basis and assessed at an amount determined via fee setting processes for the purpose of maintaining adequate cash flow to cover the expenses of the division throughout the year and to comply with the reserve requirement. The division consistently reviews the cash balance and takes action on fees as necessary. Pursuant to 12-60-705 (1)(a) C.R.S., licensees are required to submit payment to the department of revenue through the division on the tenth business day of the month immediately following the month in which each performance took place.

Current licensees include one live horse racetrack facility, five source market fees (SMF), with three more in the application process, and other various licenses for employees who work in the industry in the State of Colorado. Source market fees provide an opportunity for racing entities outside of Colorado to offer wagering on simulcast races to Colorado residents. For this privilege, racing entities pay a fee set by the Racing Division Director (currently at 5%), of total wagers per 12-60-102 (25.5) C.R.S. and 12-60-202 (3)(h) C.R.S. Operations, and thus collections, for the SMF licensees began in January 2013.

One of the challenges with fee setting and meeting the fund reserve requirement for the Racing Cash Fund is maintaining an adequate cash balance for the continuation of operations throughout the year. Live Colorado horse racing takes place from May through August and expenses for the division are higher during these months than any other time of the year and adequate cash flow is a priority during this period. Up until fiscal year-end 2013, the division carried an accounts receivable balance that was approximately 50% of the reserve requirement for all 12 months of the fiscal year. The effect of this requirement at year-end and during the live race season left the cash fund balance too low to adequately fund operations from a cash flow perspective.

Projected expenses that do not occur as planned have a significant impact on the year-end fund balance. The reserve requirement is 16.5% of total expenses. Consequently, if expenses do not materialize such as unplanned vacancies, the required reserve fund balance decreases. Many planned expenditures such as laboratory services and legal services fluctuate based on need and demand. In effect, the required reserve fund balance fluctuates throughout the year mirroring changes in expenditures even though revenues remain relatively stable, therefore, making it challenging to meet the reserve requirement by year-end.

Another challenge with the Racing Cash Fund is the initial projected to actual collection of source market fees. As mentioned above, the SMF is a percentage of wagers placed by Colorado residents for the performance month and are paid by the tenth day of the following month. These amounts fluctuate based on total wagers placed, races scheduled and held as well as interest in the type of race. Source market fees and activities began in January 2013 and the first few months of collections were difficult to project as this market was new to Colorado. Moreover, Churchill Downs, one of the SMF licensees, biggest race event occurred in May 2013 and the division collected the percentage fee in June. The large influx of cash, coupled with changes in expenditures, occurred too late to reduce fees elsewhere in time for fiscal year-end. The unpredictability of SMF during popular racing events will continue to present challenges in meeting the reserve requirement for the Racing Cash Fund.

Actions taken in FY 2013-14 to comply with 24-75-402, C.R.S.

The Racing Division monitored expenditures and revenue collections regularly throughout the fiscal year and adjusted fees six times. Additionally, projections for the SMF collections were closer to actuals when compared to the initial year. At fiscal year-end 2013, the department reevaluated the historical process for the annual accounts receivable entry and made changes to in-house mechanisms, which provided more efficient and effective cash flow analysis and continued compliance with generally accepted accounting principles. In FY 2013-14, Period 12 fund balance shows that the Racing Cash Fund will have a reserve balance equal to approximately 14.04% of total expenses, or $33,814 below the reserve requirement.

Auto Dealers License Fund, 12-6-123 (1), C.R.S.

The Auto Industry Division collects fees from licensees for the Auto Dealers License Fund based upon the projected direct and indirect expenses of the division, current cash and fund balances, and the reserve requirement as provided in 24-75-402, C.R.S. The division monitors expenditures and revenue collections regularly throughout the year, adjusts expenditures where possible, and examines and recommends fee adjustments as appropriate. Fee setting is limited to once annually per 12-6-110(5) (a) C.R.S., and the division works cooperatively with the Dealer Board throughout the fee setting process.

<u>12-6-110, C.R.S. Fees, Disposition, Expenses, Expiration of Licenses</u>
The annual fee setting process begins with the projected year-end fund balance for the current year, less the projected direct and indirect expenses for the new fiscal year to determine the amount of revenue necessary to ensure sufficient fund and cash balances for the coming year. Final decisions for fees are made in cooperation with the Dealer Board who recommends fee adjustments to the Department of Revenue's Executive Director for consideration and final action. Fees are due on an annual basis and assessed at an amount determined via fee setting for the purposes of maintaining adequate cash flow to cover expenses of the division throughout the year and to comply with the reserve requirement.

One of the challenges with the Auto Dealers License Fund is to accurately project license issuance activity. The automotive industry was significantly impacted by the downturn in the economy in 2008 and the fund continues to be challenged by the volatility of the industry. An unprecedented number of dealerships closed in 2008 and 2009, which caused an adverse effect on license revenues, and the fund experienced significant cash flow problems as a result. As industry conditions have improved, expert opinions have varied as to the number and type of licenses that will be issued on an annual basis.

As provided in 12-6-110 (3)(b), C.R.S., licensees receive notice to renew licenses for the next annual licensing period thirty days prior to the expiration of such licenses and the division begins collections for the next license cycle. The annual fee setting process commences in March and April and is finalized in May to provide sufficient time to notice the licensees and update license applications and forms prior to the effective date of July 1. Additionally, as shown in the table on the next page, 15% of the fee revenue is collected in June, the highest month of the fiscal year. Collections can fluctuate based on fee adjustments and the number of license renewals, thereby impacting the year-end cash balance. As previously indicated, it is difficult for the division and Dealer Board to react to unexpected changes in revenue because the fund is limited to fee setting once each year.

Projected expenses that do not occur as planned have a significant impact on the year-end fund balance. The reserve requirement is 16.5% of total expenses. Consequently, if expenses do not materialize such as unplanned vacancies, the required reserve fund balance decreases. In effect, the required reserve fund balance fluctuates throughout the year mirroring changes in expenditures even though revenues remain relatively stable, therefore, making it challenging to meet the reserve requirement by year-end. As previously indicated, fee setting occurs once annually. As a result, the division and the Dealer Board are not able to adjust fees periodically in response to fluctuations in planned expenditures or significant changes in revenue.

The table on the next page shows the revenue dispersion for fees collected and credited to the Auto Dealers License Fund per month, per quarter, and per six-month basis.

AID Revenue Dispersion			
Percentage of Total Revenue Collected per Month			
Five-Year Average			
Month	Per Month	Per Quarter	Per Six-Month
July	9.8%		
August	10.4%		
September	9.9%	1st- 30.1%	
October	7.6%		
November	5.7%		
December	5.7%	2nd- 19%	1st Half- 49%
January	6.0%		
February	6.7%		
March	8.7%	3rd- 21.4%	
April	7.2%		
May	7.3%		
June	15.0%	4th- 29.5%	2nd Half- 51%

<u>Actions taken in FY 2013-14 to comply with 24-75-402, C.R.S.</u>

The Auto Industry Division continues to monitor expenditures and revenue collections regularly throughout the fiscal year. As part of the FY 2014-15 Auto Dealers License Fund fee setting process, the division and the Dealer Board worked cooperatively to develop fee and licensing models to ensure the fund would have sufficient revenue to fully support the appropriation while reducing the uncommitted reserve per the statutory requirement. Additionally, the Division Director reached out to the board at the regular fee setting meeting and two special board meetings to emphasize the importance of complying with the statutory reserve requirement. At the Motor Vehicle Dealer Board meeting held May 7, 2014, the Board recommended a 7% overall fee decrease, based on a projected 2% growth in licensing activity, with the following three exceptions: continuation of the Off-Premise Permit Fee at $300; continuation of the Reprint Fee at $25 and; continuation of the Late Fee at $50. In previous years fee adjustments were rounded to the nearest $5.00 increment. Effective in FY 2014-15, fee adjustments will be rounded to the nearest $1.00. Although the automotive industry is still volatile, the reduction in fees are reasonable to ensure an adequate cash balance to fund operations and to comply with the reserve requirement by year-end FY 2015-16.

Liquor Enforcement Division and State Licensing Authority Cash Fund, 24-35-401, C.R.S.
The Liquor Enforcement Division sets and collects fees from licensees for the Liquor Enforcement Cash Fund based upon the projected direct and indirect expenses of the division, current cash and fund balances, and the reserve requirement as provided in 24-75-402, C.R.S. The division monitors expenditures and revenue collections regularly throughout the year, adjusts expenditures where possible, and examines and recommends fee adjustments.

12-46-105, C.R.S. Fees and Taxes – Allocation

The annual fee setting process begins with the projected year-end fund balance for the current year, less the projected direct and indirect expenses for the new fiscal year to determine the amount of revenue necessary to ensure sufficient fund and cash balances for the coming year. Fees are due on an annual basis and assessed at an amount determined via fee setting for the purposes of maintaining adequate cash flow to cover the expenses of the division throughout the year and to comply with the reserve requirement. The amount assessed via fee setting applies only to those fees the division has the authority to adjust. These fees are deposited in the Liquor Enforcement Cash Fund and are listed in Table 1. However, other fees are set in statute and credited to the general fund with $50.00 of each fee credited to the Liquor Enforcement Cash Fund. These fees are listed in Table 2.

Changes in fees can take up to 90 days to implement in order to ensure the industry has received proper notification and to update license applications and notifications for both state and local licensing authorities. This includes 64 counties and 271 incorporated municipalities, and a total of 13,199 licensees as of July 2014. Fully utilizing the division’s spending authority would decrease the uncommitted reserve balance over time. However, projected expenses that do not occur as planned have a significant impact on the year-end fund balance. The reserve requirement is 16.5% of total expenses. Consequently, if expenses do not materialize such as unplanned vacancies, the required reserve fund balance decreases. In effect, the required reserve fund balance fluctuates throughout the year mirroring changes in expenditures even though revenues remain relatively stable, therefore, making it challenging to meet the reserve requirement by year-end.

The Liquor Enforcement Division deployed a new licensing system in June 2012. The implementation of this licensing system has enhanced service delivery, automated tracking and reporting of licensing data, provided automated accounting and reconciliation of cash funds, and aligned license processing and revenue collections under the direct management of the division. Data obtained from the new licensing system and the implementation of a new revenue projection model outlined below position the division to develop a fee setting model that is more stable and reliable over time, thereby minimizing the need for multiple fee adjustments and causing disruptions to the industry.

Actions taken in FY 2013-14 to comply with 24-75-402, C.R.S.

The Liquor Enforcement Division continues to monitor expenditures and revenue collections regularly throughout the fiscal year and makes expenditure adjustments where possible. Additionally, the division has developed a new revenue projection model. The redesign of revenue projection and fee-setting models for the Liquor Enforcement Cash Fund is slated for management review and approval in the summer of 2014. Fees will be adjusted to address the excess uncommitted reserves and these adjustments will be communicated to the industry and fully implemented by the end of September 2014. In order to minimize the disruption to the industry and prevent sharp increases or decreases in fees, the division intends to take a measured approach to reducing the fund balance beginning in FY2014-15 with the goal of fully complying with the reserve requirement by the end of FY 2015-16.

Summary

The department is committed to complying with S.B. 98-194. However, some of the challenges noted previously could be mitigated by applying the reserve requirement to the total appropriation rather than to total expenditures. Expenses can fluctuate due to unforeseen circumstances, making it challenging to effectively manage these cash funds. However, the appropriation is relatively stable year over year and provides greater predictability for fee setting purposes.

We appreciate the opportunity to respond. If you have any questions, please do not hesitate to contact me at (303) 866-5610 or by email at barbara.brohl@state.co.us.

Sincerely,

Barbara J Brohl

Barbara J. Brohl
Executive Director

cc: Legislative Audit Committee

Table 1 – Liquor Enforcement Division and State Licensing Authority Cash Fund: Application and Processing Fees - 100% Liquor Enforcement Cash Fund

LIQUOR ENFORCEMENT DIVISION STATE LICENSING AUTHORITY FEES 12-47-501 (2) and (3), C.R.S.	
Application and Processing Fees	**Processing Fee**
Alternating Proprietor Licensed Premises	$150.00
Application Fee for New License	$1,025.00
Application Fee for New License-w/Concurrent Review	$1,125.00
Application Fee for Transfer License	$1,025.00
Art Gallery Permit	$71.25
Bed & Breakfast Permit	$50.00
Branch Warehouse or Warehouse Storage Permit	$100.00
Change of Corp or Tradename	$50.00
Change of Location	$150.00
Corporate/LLC Change (per person)	$100.00
Duplicate Liquor License	$50.00
Limited Liability Change	$100.00
Manager Registration (Hotel/Restaurant or Tavern)	$75.00
Master File Background	$250.00
Master File Location Fee	$25.00 per location
Modification of Licensed Premises (City or County)	$150.00
New Product Registration	$5 per unit
Optional Premises added to H& R	$100 per unit
Retail Warehouse Storage Permit	$100.00
Sole Source Registration	$100 per unit
Wine Festival Permit	$25.00
Wine Direct Shipment Permit	$50.00

Table 2 – Liquor Enforcement Division: State Fee Established in Statute

The State Fee is portioned between the Liquor Enforcement Cash Fund and the General Fund wherein $50.00 of each license listed below is deposited in the cash fund, excluding Old Age Pension distributions.

STATE FEE ESTABLISHED IN STATUTUE 12-46-501, 12-47-501 and 12-48-104, C.R.S.	
State Fee - Portioned Between Cash and General Funds, $50.00 of each license listed below is deposited in the Liquor Enforcement Cash Fund, excluding OAP	**State Fee**
3.2% Retail Beer Off-Premises (City)	$96.25
3.2% Retail Beer Off-Premises (County)	$117.50
3.2% Retail Beer On-Premises (City)	$96.25
3.2% Retail Beer On-Premises (County)	$117.50
3.2 Retail Beer On/Off Premises (City)	$96.25
3.2 Retail Beer On/Off Premises (County)	$117.50
3.2% Beer Importer's License	$150.00
3.2% Beer Manufacturer's License	$150.00
3.2% Beer Special Events Permit	$10.00
3.2% Beer Wholesale License	$150.00
3.2% Nonresident manufacturer's License	$150.00
Addition of Related Facility to Resort Complex	$75.00 per unit
Arts License (City or County)	$308.75
Beer and Wine License (City)	$351.25
Beer and Wine License (County)	$436.25
Brew Pub License (City or County)	$750.00
Club License (City or County)	$308.75
Hotel and Restaurant License (City or County)	$500.00
Hotel and Restaurant License w/opt premises (City or County)	$500.00
Importers License (malt liquor)	$300.00
Importers License (vinous & spirituous)	$300.00
Limited Winery License	$70.00
Liquor Licensed Drugstore (City)	$227.50
Liquor Licensed Drugstore (County)	$312.50
Nonresident Manufacturer's License (malt liquor)	$300.00
Manufacturer's License (Brewery)	$300.00
Manufacturer's License (Distillery or Rectifier)	$1,050.00
Manufacturer's License (Winery)	$300.00
Optional Premises License (City or County)	$500.00
Public Transportation License	$75.00 per unit
Racetrack License (City or County)	$500.00
Resort Complex License (City or County)	$500.00

Retail Gaming Tavern License (City or County)	$500.00
Retail Liquor Store License (City)	$227.50
Retail Liquor Store License (County)	$312.50
Special Event Permit (Malt, Vinous, Spirituous)	$25.00
Tavern License (City or County)	$500.00
Vintners Restaurant License (City or County)	$500.00
Wholesale Beer License (malt liquor)	$550.00
Wholesale Liquor License (vinous & spirituous)	$1,050.00
Old Age Pension Fund	
OAP 85% Liquor License (City or County)	Varies based on state fee

State of Colorado

LEGISLATIVE AUDIT COMMITTEE
State Services Building - Seventh Floor
1525 Sherman Street
Denver, Colorado 80203

March 5, 2014

Barbara Brohl, Executive Director
Department of Revenue
1375 Sherman Street, Room 409
Denver, CO 80261

Dear Director Brohl:

The Legislative Audit Committee released the Cash Funds Uncommitted Reserves Performance Audit Report on February 25, 2014. The Committee is concerned that the cash funds shown below have been out of compliance with SB 98-194 for four to six consecutive years and had the following excess uncommitted reserve balances per fiscal year:

Fiscal Year	Racing	Colorado Dealer License Board	Liquor Law Enforcement
2008	$ -	$ -	$ 210,305
2009	$ -	$ -	$ 358,335
2010	$ 71,522	$ 644,669	$ 455,866
2011	$ 242,508	$ 331,550	$ 482,663
2012	$ 217,530	$ 144,635	$ 520,137
2013	$ 173,587	$ 488,433	$ 581,702

The Department provided the responses noted below in the past five years' cash funds audits, as taken from the Cash Funds Excess Uncommitted Reserves Report #2050, October 2009; #2050-10, November 2010; #2050-11, October 2011; #2050-12, February 2013; and #1344P, February 2014.

Fund Name: Racing
Fiscal Year 2010
Implementation Date: June 2011

In Fiscal Year 2010, the Division submitted a supplemental request approved by the General Assembly to reduce 6.8 FTE and $332,823 in the Cash Fund to reflect the cessation of live dog racing events in the State of Colorado. The dog racing industry did not operate in calendar years 2009 and 2010. In addition, the Division experienced higher than anticipated vacancies throughout the fiscal year. Consequently, the Racing Division's expenditures were lower than originally projected at the time of fee setting. It is anticipated that expenditure levels will remain less than originally projected in Fiscal Year 2011 and, thereafter. Therefore, the Racing Division is expected to adjust track fees accordingly to bring the fund into compliance by the end of Fiscal Year 2011.

Fiscal Year 2011
Implementation Date: June 2013
In Fiscal Year 2011, expenditures were lower than projected at fee setting despite a fee decrease. Consequently, fees for Fiscal Year 2012 have been adjusted downward accordingly. Cash flow and expenditure projections for Fiscal Year 2012 and Fiscal Year 2013 indicate that the fund balance will stabilize and comply with state statutes by the end of Fiscal Year 2013 with the implementation of modest fee adjustments, as necessary.

Fiscal Year 2012
Implementation Date: June 2014
In Fiscal Year 2012 license fees decreased 11.2 percent. Although the Racing Cash Fund had excess reserves at the end of Fiscal Year 2012, the fee decrease impacted the Fund's cash balance, which is projected to be at least $100,000 below the reserve requirement by the end of this fiscal year. Consequently, it is anticipated that fees will be increased in Fiscal Year 2014 so that the fund will be more in line with the reserve requirement.

Fiscal Year 2013
Implementation Date: June 2014
The uncommitted reserve balance in the Racing Cash Fund has declined each year since 2011. In 2013, the uncommitted reserve balance declined to $173,587 or 20.2 percent from the previous year. This reflects a decrease in license fees in Fiscal Year 2012 of 11.2 percent and another reduction in fees of 2.3 percent in Fiscal Year 2013. The Division will continue to monitor excess uncommitted reserves, adjusting fees as necessary throughout Fiscal Year 2014 so that the fund will be more in line with the reserve requirement.

Fund Name: Colorado Dealer License Board
Fiscal Year 2010
Implementation Date: June 2013
This Fund is not in compliance with SB 98-194 due to several mitigating factors. In Fiscal Year 2009, the Fund experienced significant cash flow problems as a result of the poor economy. An unprecedented number of dealerships closed, causing an adverse effect on license revenues. Consequently, the Board increased license fees by 90 percent in the spring of 2009 to offset the loss of license revenues and to reflect economic uncertainties in the automotive market. For Fiscal Year 2011, the Division is projecting a license fee decrease of approximately 35 percent to bring the fund into compliance by Fiscal Year 2013. Due to the volatility of the automotive industry, the Division is proceeding ahead cautiously to minimize

significant changes in the license fee structure.

Fiscal Year 2011
Implementation Date: June 2013
This fund continues to be challenged by the volatility of the automotive industry, as evidenced by the significant changes in license fees. In Fiscal Year 2010, license fees increased 90 percent, while in Fiscal Year 2011 and Fiscal Year 2012, fees decreased 35 percent and 5 percent, respectively. Cash flow projections for the next three fiscal years show that the fund balance will stabilize and comply with state statutes, although minor fee adjustments are projected. The continued modest decline in dealer licenses could be attributable to the sluggish economy and uncertainties in the automotive market. Industry indicators suggest a leveling effect in Fiscal Year 2013 if not a slight increase in dealer licenses. The division is limited to a one fee adjustment per fiscal year; thus, current fee levels cannot be adjusted until Fiscal Year 2013.

Fiscal Year 2012
Implementation Date: June 2014
This fund continues to be challenged by the volatility of the automotive industry. In Fiscal Year 2012, the number of licensees increased 2.3 percent after a three-year decline. After an increase of 90 percent to license fees in Fiscal Year 2010, fees were decreased in Fiscal Year 2011 and Fiscal Year 2012 of 35 percent and 5 percent, respectively. While the excess reserve balance has declined over the last three years, the fund is projected to have an ending cash balance over the reserve requirement in Fiscal Year 2013. However, it is anticipated that the Auto Dealer Board will impose another fee decrease in the spring of 2013 to more closely align the fund balance with the reserve requirement.

Fiscal Year 2013
Implementation Date: June 2015
This fund continues to be challenged by the volatility of the automotive industry. After a three-year decline, the number of licensees increased 2.3 percent in Fiscal Year 2012 and 3.5 percent in Fiscal Year 2013. However, the Auto Dealer Board adjusted fees upward in the last two fiscal years with the expectation that licensing activity would decline. This has not occurred. In Fiscal Year 2012 and Fiscal Year 2013, the Board increased license fees by 5 percent and 24 percent, respectively. While the excess reserve balance has declined from 2010 through 2012, it increased by $343,798 or 237.7 percent in Fiscal Year 2013 reflecting the increase in licensees and fees. It is anticipated that the Auto Dealer Board will decrease fees in 2014 to more closely align the fund balance with the reserve requirement. However, the fund may not meet the statutory requirement until Fiscal Year 2015.

Fund Name: Liquor Law Enforcement
Fiscal Year 2009
Implementation Date: June 2010
The Division's Fiscal Year 2009 expenditures were lower than originally projected at fee setting due to a statewide hiring freeze that resulted in vacancy savings for the majority of the fiscal year. Cash flow projections indicate that the fund balance will stabilize and comply with Section 24-75-402, C.R.S. without the need to adjust current fee levels.

Fiscal Year 2010
Implementation Date: June 2012
The Liquor Enforcement Division's Fiscal Year 2010 expenditures were lower than projected due to unanticipated vacancy savings. The Division is currently developing plans to reduce the uncommitted reserve balance by $156,000 over a 12-month period, commencing December 1, 2010 ($91,000 in Fiscal Year 2011 and $65,000 in Fiscal Year 2012). Assuming the receipt of 100 new and transfer applications per month, a fee reduction of $130 per application (from $1,025 to $895) is expected to achieve the desired revenue stream. The earliest implementation date for a fee change is December 1, 2010, as 330 local licensing jurisdictions must be advised and prepared to implement the change on behalf of the state liquor licensing authority. The reduction in application fees is expected to bring the uncommitted reserve balance into compliance over a two-year period. Reducing fees by a greater amount to achieve the 16.5 percent maximum by the conclusion of Fiscal Year 2011 could eliminate the reserve balance entirely by the end of Fiscal Year 2012. Under this proposal, the Division's cash flow projections for Fiscal Year 2012 are expected to stabilize, bringing the uncommitted reserve balance into compliance by year-end.

Fiscal Year 2011
Implementation Date: June 2013
In Fiscal Year 2011, expenditures were lower than projected, and no fee adjustments were made nor are any anticipated this fiscal year. Cash flow and expenditure projections for Fiscal Year 2012 and Fiscal Year 2013 show that the fund balance will stabilize and comply with state statutes without a fee adjustment. The Division believes it is in its best interest to allow the cash fund to stabilize over the next 2 fiscal years without adjusting fees, given that fee adjustments are disruptive to the industry and that current cash flow projections do not justify a fee adjustment.

Fiscal Year 2012
Implementation Date: June 2014
There has been no fee adjustment in the Fund for the last three years despite a decrease of 15.2 percent in the number of liquor licenses issued in Fiscal Year 2012. The uncommitted reserve balance in the Fund has increased each year over the last five years. However, in Fiscal Year 2013, expenditures are projected to increase as the vacancy rate declines and revenues are projected to remain stable. Consequently, the uncommitted reserve balance is expected to decline in Fiscal Year 2013, but remain higher than the reserve requirement. By Fiscal Year 2014, the uncommitted reserve balance is expected to be more in line with the statutory requirement without adjusting fees. The Division has determined that it is best to stabilize the fund and fees over a period of time to minimize disruption to the industry.

Fiscal Year 2013
Implementation Date: June 2015
There has been no fee adjustment in this Fund for the last four years despite a continual decline in the number of liquor licenses issued. The number of licenses has declined in Fiscal Year 2012 and Fiscal Year 2013 by 15.2 percent and 5.2 percent, respectively. The decrease in licenses issued over the past two years is the result of legislation two years ago that allowed local licensing authorities to issue special event permits without State approval. Nonetheless,

the uncommitted reserve balance in the Fund has increased each year over the last six years. In Fiscal Year 2014, expenditures are projected to increase as the Division is fully staffed and spending authority was increased in the Fiscal Year 2014 budget. However, fees were not adjusted so revenue is projected to remain stable. By the end of Fiscal Year 2014, the uncommitted reserve balance is expected to decline, but it may not meet the statutory requirement until Fiscal Year 2015.

We will be requesting a status report as of August 1, 2014, indicating what actions you have taken to ensure the Funds' compliance with SB 98-194.

Sincerely,

Sen. Steve King

Senator Steve King, Chair
Legislative Audit Committee

cc: Senator Lucia Guzman, Vice-Chair, Legislative Audit Committee
Senator David Balmer
Representative Dan Nordberg
Representative Dianne Primavera
Representative Su Ryden
Representative Jerry Sonnenberg
Senator Lois Tochtrop

Representative Crisanta Duran, Chair, Joint Budget Committee

STATE OF COLORADO
Department of State
1700 Broadway
Suite 200
Denver, CO 80290

Scott Gessler
Secretary of State

Suzanne Staiert
Deputy Secretary of State

March 13, 2014

Honorable Members of the Legislative Audit Committee
State Services Building – Seventh Floor
1525 Sherman Street
Denver, CO 80203

Dear Legislative Audit Committee Members:

Thank you for your inquiry and your concerns about excess reserves in state cash funds. As I stated, I appreciate your efforts and the opportunity to highlight my office's efforts to bring our cash fund into compliance with state law.

During the 2012 legislative session, I worked with Rep. Keith Swerdfeger (R-Pueblo West) and Senator Cheri Jahn (D-Wheat Ridge) to implement recommendations from the State Auditor's office. Among other items, that legislation (HB12-1274) rolled the Notary Cash Fund into the Secretary of State's Cash Fund. This was one of our final cash funds to be incorporated into the department's cash fund bringing us into compliance with the mandated cash reserve policy.

Since then, I also committed to reducing the Department's excess reserves total of $4,061,078. Beginning September 2012, I initiated fee holidays for all of our business, non-profit, notary public, charity and bingo-raffle filers to draw down that total. In the end, we kept $3.5 million in the hands of our filers and brought our cash fund in compliance with the law.

Again, thank you for the opportunity to share our successes and please contact me if you need anything further.

Sincerely,

Scott Gessler
Secretary of State