MEMORANDUM

TO: Joint Budget Committee Members

FROM: Scott Thompson, JBC Staff (x4957)

SUBJECT: Department of Revenue Pending Items and Comebacks

DATE: March 13, 2015

During figure setting for the Department of Revenue on March 2, 2015, the Committee tabled all of the budget amendments that had a corresponding request in the FY 2014-15 supplemental bill for the Department. The Committee needs to take actions on the following items to complete the Department of Revenue budget for FY 2015-16:

Items for Committee Action

- BA1 Tax Document Processing Costs—The Tax Pipeline
- BA2 Marijuana Enforcement Division FTE and Legal Services
- BA3 Senate Bill 13-251 funding
- BA4 Division of Motor Vehicles Legal Services

Items for Informational Purposes

- State Lottery Funding
- Limited Gaming

BA1 Tax Document Processing Costs: The recommendation includes an increase of $104,083 General Fund to provide staff to assist in the processing of taxes by the Department of Revenue.

➔ BA1 Tax Document Processing Costs

The Department submitted a supplemental request for FY 2014-15 that included an increase of $1,715,601 General Fund and 5.2 FTE. This request annualizes to 14.9 FTE and $1,819,684 in FY 2015-16. At the time of supplemental staff comebacks, the Committee chose to wait until figure setting for the Department of Revenue to make a decision on the continuation funding, providing staff with additional time for the analysis provided below.

Background

The Department is statutorily responsible for tax administration activities for the State. The Department's tax processing system is called the "tax pipeline," which includes receiving, extracting, scanning, capturing, processing, editing, and archiving different types of documents. The pipeline consists of many activities and processes performed by staff in both the Department of Revenue and the Department of Personnel. In September 2011, the Office of the State Auditor conducted a tax pipeline performance audit of the Department. The audit described a bifurcated document management system that relies on outdated manual processes, outdated infrastructure, lack of coordination between the departments, and a failure to capitalize on either department's expertise.

To address the findings made in the State Auditor's report, both Departments undertook a Lean process review of all pipeline activities and identified numerous opportunities to automate or streamline business processes by leveraging new equipment and technology. The Departments determined updating the pipeline would be best accomplished in four phases:

- Phase 1: Evaluate current processes, identify inefficiencies, and recommend solutions.
- Phase 2: Restructure the current work flow to reduce document handling.
- Phase 3: Apply recommended process improvements that focus on automation and implementation of a scanning system to reduce data entry.
- Phase 4: Migrate outgoing mail and document printing processes from the Department of Revenue to the Department of Personnel's Central Services' mail operations center.

Because the Department initially expected Phase 3 to be complete by January 1, 2014, the Department submitted and the Committee approved a budget request in the FY 2014-15 budget that reduced the Department's annualized budget by $1,685,137 General Fund and 24.3 FTE. The Department of Personnel also submitted a similar budget request and ultimately, the reduction between both Departments amounted to $2,075,106 and 38.8 FTE. The table below shows the detail of the reductions.

Budgetary Reductions by Department in FY 2014-15

Budget Line Item	Department of Revenue		Department of Personnel		Total	
	Appropriation Change	FTE	Appropriation Change	FTE	Appropriation Change	FTE
Personal Services	(1,085,544)	(24.3)	(525,486)	(14.5)	(1,611,030)	(38.8)
Seasonal Tax Processing	(101,154)	0	0	0	(101,154)	0
Operating Costs	(86,279)	0	135,517	0	49,238	0
Document Management	(392,160)	0	0	0	(392,160)	0
Leased Space	(20,000)	0	0	0	(20,000)	0
Total	**(1,685,137)**	**(24.3)**	**(389,969)**	**(14.5)**	**(2,075,106)**	**(38.8)**

In hindsight, the budgetary reductions requested by both of the Departments proved to be premature. During implementation of the system the Department identified unexpected difficulties and implementation of Phase 3 has been delayed until June 2015.

In a perfect world, the automated portion of the tax-document processing pipeline would proceed as follows. First, all mail sent to the Department of Revenue for tax processing is opened, prepped, and scanned with the new equipment purchased by the Department of Personnel. The scanner then identifies which of the 732 unique pages of the 322 unique forms is being scanned. Once the form is scanned and known, the software would then communicate the information on the form with the GenTax software the Department uses for administering the state tax infrastructure. If the scanner detects that a payment is included with other documents mailed, it has the capability to scan and deposit the check. Once the information is added to the GenTax software, it is available for tax examiners to analyze or work with taxpayers.

Unfortunately, we live in the real world and the Department encountered significant delays with the first few items the vendor needed to address as the project management plan detailed. Since identifying this problem, the Department replaced their project manager and after several meetings with the vendor, it too replaced the project manager it had on this job. After these changes were made, the vendor attempted to renegotiate the contract and require more payments from the state. With guidance from the Attorney General's Office, the Department pushed back in negotiations and ultimately agreed only to pay for increased travel needs of the vendor, totaling $164,000 in FY 2014-15.

So far, the Department and its vendor have implemented the scanning hardware, the software to detect and process sales tax payments, and the ability to direct deposit checks into the state bank account. These processes are working as both the vendor and the Department anticipated. What is not working is the software is having trouble identifying all fields on all documents submitted for annual business and personal income tax filing. The vendor and the Department are working to address the issues in these tax areas and right now the difficulty stems from the process that does not require the forms to be placed in the scanner queue. No other state or vendor has fully implemented a technology solution that does not require a pre-sort of the different forms.

As a result, the read rate for the software is not as high as the Department and its vendor first expected. The software utilizes optical character recognition (OCR) to identify characters on scanned documents. The Department's vendor uses five different proprietary OCR engines to maximize the accuracy of the characters read into the system, each has its own strength. When the new system interacts with the 2014 tax forms created with it in mind, the system captures 90-95 percent of all the fields on that form. The fields that the system accepts are automatically input into the GenTax system while those not accepted need to be validated by human eyes. The read rate is highly dependent on the quality of the form. For example, forms that were not designed specifically for readability, like those submitted by third party vendors and previous year forms, achieve a much lower average read rate. Ironically, if a taxpayer downloads the pdf form from the Department website and chooses to save the pdf with the setting "shrink to fit" selected, the system would not properly identify that document because the form identifiers[1] that are unique to that form would be altered. The Department calculates that the read rate on all forms is currently averaging about 50 percent. This does not mean that 50 percent of the forms have an error but that 50 percent of the fields need to be validated before it can either be accepted or corrected. According to the Department, this is significantly less time consuming than manually entering all of the fields as was done previously.

Tax year 2014, which is currently being processed by the Department, is the first year in which the Department has redesigned its forms with the form identifiers included in them. The

[1] Form identifiers are unique lines and symbols included on each page of each new tax form to assist the software in identification.

Department typically sees the highest number of returns from the current tax year back two additional years. This suggests that the further into the future we get from 2014, the better the software read rate will become on the new hardware. All forms prior to 2014 were not designed for OCR capability and will never read well. The original staffing numbers and reductions requested in FY 2014-15 were premised on the idea that the technology would achieve an average read rate of 70 percent of the fields.

The Department also identified the need for the Department of Personnel to increase rates for some of the tasks it performs in the tax pipeline. The increased costs can be attributed to legislation proposed that will allow the Department of Personnel to build depreciation into the rates and use the cash generated to build up a cash fund to replace equipment in the future without seeking future capital outlay. Annual depreciation and maintenance of the equipment and software associated with the system must be captured and covered by the Department of Personnel in the rate structure. It was anticipated that capital investment and depreciation of the system would be reflected in the Department of Revenue and would not be an ongoing cost to it. The result is that this depreciation cost will be added to the rates charged to it by the Department of Personnel and represents an increase over previous calculations.

Ultimately, there is going to be an ongoing need for temporary staff to identify documents that the system cannot; and to verify and validate or correct document fields the system places in the exception queue. The need will likely be reduced over time as the Departments and their staffs gain experience with the new system and there are more years where tax forms have document identifiers.

At this point of project implementation, staff concludes that the real efficiencies that will be realized by the implementation of the system will be more focused on internal and customer service than on fiscal reductions. Checks received by the Department are now deposited into the bank very rapidly, some even on the same day they are received. Documents are handled less both during the capture stage and by reducing trips between Denver and Pueblo from four to one. There is a reduced need for data entry reducing staff time required for that task, which also increases accuracy of the process. When data entry is needed, the new software provides a faster operating environment for data entry. Each of these benefits will increase the perception of customer service and reduce clerical errors.

The customer service experience the updated technology allows the Department to provide is the highlight. The income tax system is one with which almost every resident of Colorado must interact. The new system allows tax examiners to have access to taxpayer documents within one to two days, down from two to four *weeks*. It also allows the examiners to view both the actual document submitted by the taxpayer while simultaneously viewing that data entered in GenTax.

Staff Recommends the Committee approve the Department Request to increase appropriations by $104,083 General Fund and 9.7 FTE in FY 2015-16 to continue work required to process taxes for Colorado. The appropriation will include $1,715,601 and 5.2 FTE in the base that were provided in the Department's supplemental bill.

Potential Statutory Change

Although the Department updates its tax forms yearly to incorporate legislative changes, it does not have authority to require tax preparers to use the forms it creates. A great example of this is when TurboTax or other software solutions take the updated forms from every state and modify them to be completed within their system environment. Sometimes the modification may be minor and the document will be read by the scanner, however, the Department also pointed out how finicky the system can be when 322 unique forms are even slightly modified. In order to assist the technology in identifying the forms, the Department has begun including small symbols or marks on each of them. While this greatly enhances the read rate of forms that are submitted to the Department, it also reduces the read rate of the forms that are slightly modified or completely different.

When asked about providing the Department with authority over the forms that are submitted to it, the Department expressed support for a legislative change that would require certain tax preparers to have their modified forms approved before being allowed to submit them for their customers. **Staff recommends the Committee consider carrying legislation to provide this authority to the Department of Revenue and if the Committee wishes to pursue this change, staff further requests permission to work with both Departments of Personnel and Revenue to determine the exact change needed.**

BA2 Marijuana Enforcement Division FTE and legal services: The recommendation includes an increase of $652,590 cash funds and 9.7 FTE to address an increased workload resulting from the increase in the number of medical and retail marijuana businesses and an increase in enforcement actions related to these businesses, driving increased Attorney General support for the Department.

➔ BA2 Marijuana Enforcement Division FTE and Legal Services

The Department submitted a supplemental request for FY 2014-15 that included two components: (1) an increase of $286,664 cash funds and 3.3 FTE to begin hiring new staff to meet workload demands of regulating the emerging marijuana industry; and (2) an increased appropriation of $178,218 to purchase an additional 1,800 hours of legal services from the Attorney General. The Committee approved this request, and staff has reflected the continuation funding for FY 2015-16.

Background

Adult-use marijuana became legal to sell at licensed retail marijuana shops on January 1, 2014. The Marijuana Enforcement Division (Division) is tasked with licensing and regulating medical and retail marijuana businesses in Colorado by issuing licenses, conducting background investigations, imposing disciplinary actions, enforcing compliance mandates, implementing legislation, and promulgating rules.

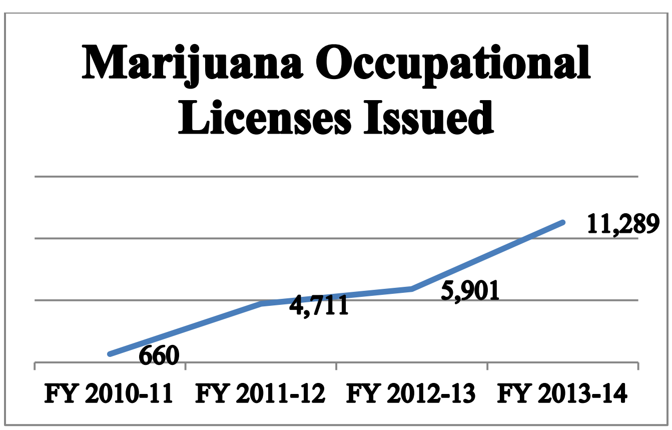
House Bill 10-1284 (Medical Marijuana Regulation) appropriated 110.0 FTE to the Department, however, the Fiscal Note for the bill assumed the Division only required 23.2 FTE to meet the requirements imposed by the bill. The FTE and funding appropriated to the Division was reduced to 55.2 FTE in S.B. 11-209 (Long Bill) and has not been increased since, even though a number of bills that increase Division workload were passed since this time. The table below lists bills that have impacted the workload of the Division without increasing its appropriation and FTE:

Special Bills Affecting the Marijuana Enforcement Division	
Bill Number	**Bill Title**
H.B. 10-1284	Medical Marijuana Regulation
S.B. 13-283	Implementation of Amendment 64 Consensus Recommendations
H.B. 13-1061	Responsible Medical marijuana Vendor Standards
H.B. 13-1238	Transfer Funds for Medical Marijuana Enforcement
H.B. 13-1317	Implementation of Amendment 64 Majority Recommendation
H.B. 13-1318	Retail Marijuana Taxes
H.B. 14-1122	Keep Legal Marijuana From Those Under 21
H.B. 14-1361	Regulation of Marijuana Concentrates

Staffing and Associated Operating Request

With adult-use recreational marijuana becoming legal during different stages in 2014, the Division experienced significant increases in the number of business and occupational licensees. With the addition of retail marijuana, growth in the number of licensees, and increases in the number of new rules promulgated and laws passed, the Division's workload is increasing. Since July 2013, the Division reports it has consistently had at least four temporary staff assigned to the Licensing Unit to process the increased license applications. As of December 2014, the Division had only five vacant positions; all of which were expected to be hired by the end of January 2015.

This funding request is the result of the measured approach it has taken to properly staffing the Division on a permanent basis. This request comes after the Department ensured that any additional resources are required as a result of increased licensing activities that began in January and October 2014. As an example of the workload increase seen in licensing, the table below shows the increase in occupational licenses per year since the medical marijuana program was established and includes all occupational licenses:



Legal Service Hours Request

The Department also request an appropriation from the Marijuana Cash Fund to fund an additional 1,800 hours of legal services related to the need to prosecute more summary suspension cases than initially anticipated and increased demands of General Counsel as a result of complex rulemaking in novel subject areas. Staff included these hours in the base appropriation and will ultimately reflect the Committee decision once it has set the legal service rate.

The number of summary suspension cases is higher than originally anticipated and the Department expects this to continue to rise. These cases involve findings of deliberate and willful violations or that the public health, safety, or welfare imperatively requires emergency action. Summary suspension cases are in addition to the typical disciplinary and denial cases that must be litigated requiring an average of 250 hours per case. In FY 2014-15, the MED imposed or is about to impose summary suspension in four sets of cases that are expected to total 1,000 hours of legal services and is expected to be ongoing.

The Department expects the need for legal resources to continue to increase as the marijuana industries mature. The number of administrative actions pursued by the Division has increased exponentially since calendar year 2012 where two cases were processed. In CY 2013, 54 cases were processed and in CY 2014, through the October reporting period, 102 cases had been processed. The number of rules the Division is promulgating has also increased significantly during this period due to additional legislative and regulatory requirements. In FY 2011-12, 27 rules were promulgated, in FY 2012-13 there were 160, and in FY 2013-14 the number rose to 186.

In addition to the specific needs described above, the program has an increasing need for General Counsel support from the Attorney General as a result of continuous rulemaking. The Division is anticipating emergency rulemaking following legislative changes, and regular rulemaking on several issues including edible products, production management, and laboratory testing. Additionally, the Department of Law is expected to provide increased support to the Division in the following areas: medical marijuana Sunset review, increases in the number and complexity of CORA requests and other press inquiries, and increases in the number of requests for position statements and declaratory orders. Lastly, the Department of Law continues to provide support for ongoing constitutional and legal challenges. The Division anticipates all General Counsel needs to consume 800 legal service hours.

Staff recommends continuing the funding that was given initial approval during the supplemental budget process, which increases the Department's appropriation by $652,590 from the Marijuana Cash Fund. Staff requests permission to adjust the legal services appropriation included in this budget amendment to account for the Committee's decision on the legal services rate.

BA3 Senate Bill 13-251 funding: The recommendation includes an increase of $807,564 cash funds from the Licensing Services Cash fund to allow the Division of Motor Vehicles to continue providing services at five office locations to Colorado residents who qualify for identification or driver's documents under Senate Bill 13-251.

➔ BA3 Senate Bill 13-251 funding

Background

The Division of Motor Vehicles (Division or DMV) began implementation of S.B. 13-251 in FY 2013-14 with a General Fund appropriation of $436,390. As the Final Fiscal Note anticipated, the Division completed planning activities during the first fiscal year, including creating new documents that specifically state "Not valid for federal identification, voting, or public benefit purposes," undergoing rulemaking, and programming the Division software to allow issuance of the documents. During this time, the Division undertook a fee setting process that utilized an independently validated cost-accounting study to set the fee for S.B. 13-251 documents. The Division undertook this task to ensure compliance with Section 42-2-508, C.R.S., which requires the fee charged for issuance of S.B. 13-251 documents generate sufficient revenue to fully cover the direct and indirect costs of the program.

Senate Bill 13-251 authorized issuance of identification documents to Colorado residents who are not lawfully present (NLP) and those who have a temporary lawful presence (TLP). Staff notes that Colorado residents who could prove TLP in the United States prior to passage of S.B. 13-251 could already access identification documents issued by the Division. Including residents who have TLP in the bill was accomplished through a committee amendment and, ostensibly, because the Division was already providing services to residents with TLP, the Fiscal Note did not change with the amendment. Staff also notes that prior to passage of S.B. 13-251, residents who can prove TLP paid the same fee as regular residents but now pay the increased fees discussed below. The Department included both information about applicants who are NLP and those who have TLP in its January 2, 2015 supplemental budget submission. Residents who can prove TLP still use the same process to apply for identification documents they did before the passage of S.B. 13-251 and the same process as United States citizen-residents and permanent residents. In an attempt to compare like items, this staff analysis will focus on new information specific to residents who are NLP.

Starting in August of FY 2014-15, the Division began offering services authorized under S.B. 13-251 at five of its regional offices throughout the state to Colorado residents who are NLP. The Division was authorized to employ thirteen temporary staff with an appropriation of $365,737 cash funds. The Final Fiscal Note forecasted that with the temporary staff, the Division would be able to issue a total of 46,523 documents in the first year and 15,508 in the second and third years. This forecast was based on the assumption that issuing documents to residents who are NLP would take the same amount of staff time as issuing documents to populations that were already Division customers. The new documents are valid for three-years and the Final Fiscal Note envisioned increasing temporary staffing again in FY 2017-18 through the regular budget process.

The Final Fiscal Note estimated that the non-citizen resident population of Colorado is 200,000 as of 2013. Legislative Council estimated approximately one third of the state's non-citizen residents would obtain a document, which it based on the experience of the State of Utah when it enacted a similar law. Because this estimate appears in both the original Fiscal Note and the Final Fiscal Note, staff concludes the non-citizen resident population estimated by Legislative Council does not include residents who can prove temporary lawful presence. Unfortunately, the Legislative Council analyst who prepared the Fiscal Note is no longer present and JBC staff could not verify this conclusion.

When originally supplying information to Legislative Council for preparation of the Fiscal Note, the Department based its staffing numbers on an older program that began in New Mexico, which allowed undocumented residents to obtain driving privileges. Based on the experience of New Mexico, almost 80 percent of its estimate eligible population obtained a document. The Department submitted documentation to Legislative Council for the original bill that stated the program would require significantly more FTE than originally appropriated. With such a great degree of difference between the estimates of two of our neighboring states, staff questions why the more conservative experience was selected by Legislative Council.

The estimated number of non-citizen Colorado residents served as a base for the calculations made to determine funding the S.B. 13-251 program would require in FY 2014-15 and beyond. The first Fiscal Note estimated 65,815 documents would be issued in the first year but after the amendment adding individuals with TLP to the bill the Fiscal Note reduces its estimate to 45,346 documents. From this information, JBC staff assumes the reduction was made to account for the non-citizen residents who can prove TLP, whom were already being served by the Division under current law.

These assumptions set the Division up for failure. The Fiscal Note correctly assessed the amount of time it would take to service non-citizen residents who can prove TLP but did not take into account the time it would take to verify all of the documents required by statute of those who are NLP. Often, these documents were issued by a foreign government increasing the difficulty of verifying the documents. In addition to the average 34 minutes it takes for citizen residents to complete document issuance, Division staff must first ensure that non-citizens who are NLP have all of the documents required by statute and that these documents are valid, which takes an additional 30 minutes of staff time. Due to the time it takes to serve this population, it comes to no surprise that the number of documents the Division expects to issue in FY 2014-15 to residents who are NLP now totals 21,736. This represents almost exactly half of the original number of documents the Fiscal Note expected the Division to issue.

Demand for the program has been high, but it would be improper to say that demand is higher than expected. Unlike citizen residents and residents who can prove TLP, those NLP must make an appointment to verify their required documents. Below is the process flow for individuals who cannot prove a lawful presence in the United States prior to January 30, 2015:

1. The applicant needs to schedule an appointment. Appointments could be made 90-days in advance and appointments could be scheduled via an online appointment system or with call center temporary staff.

2. When the applicant arrives for the appointment, one staff person meets with them to verify their documents. This takes approximately 30 minutes and was not included in the original fiscal note calculation that assumed 34 minutes total for the entire process.
3. After the documents have been verified, the applicant takes the knowledge driving test.
4. Once the applicant passes the knowledge test, they pay $14.00 to receive their instruction permit, or an identification card. If the applicant selects an identification card, the process is complete.
5. The applicant can then take the practical driver's test, and if they pass, pay the $50.50 fee, and wait to receive their driver's license in the mail.

The Department observed the new process over the first few months of the fiscal year and noted that all 155 new appointments available each day were booked within one hour of becoming available.

JBC staff heard anecdotal evidence that people were online trying to book appointments all hours of the night and trying to obtain appointments at any of the five locations, and not necessarily the one located closest to their residence. Many applicants who are NLP report investing significant time and money traveling long distances to complete the process.

As of January 30, 2015, the Department has reduced appointments from 155 a day in five locations to 31 appointments in one location. The Division will continue providing appointments at the Denver Central Driver's License Office (Athmar). JBC staff estimates only 7,099 appointments will be available in FY 2015-16. Assuming one-third of the non-citizen residents who are NLP wish to obtain document (66,000) and also assuming the Division will issue 21,736 documents to those NLP in 2014-15, it would leave an estimated 44,264 individuals unserved in FY 2014-15. At the continuation funding level currently approved for the program, JBC staff estimates it will take over 6 years just to address the backlog from FY 2014-15, which does not even begin to address any potential additions to the population.

To serve this population of Colorado residents, staff recommends providing the Department with an appropriation of $807,564 and 13.6 FTE to convert temporary staff it employed in FY 2014-15 to permanent staff to continue providing services at five DMV offices across the state. The Department estimates this will allow it to issue approximately 25,000 documents and serve 35,000 appointments to residents who cannot prove lawful presence. The recommendation includes funding for common policy items, Medicare, and PERA, because statute requires the program to be fully supported with fees collected by the program. Staff does believe that this program could have a cycle where one year in a three year period would have a spike in applications. However, because the entire population cannot be served at this time or with the recommended appropriation, staff believes funding the program consistently each year will not fall victim to increased cyclical demands.

BA4 Division of Motor Vehicles Legal Services: The recommendation includes an increase of 1300 hours for the Division of Motor Vehicles legal expenses. The appropriation amount is *pending* the approval of the statewide blended legal services rate and represents a continuation of the funding requested and approved during the supplemental budget process.

➔ BA4 Division of Motor Vehicles Legal Services

The Department made one request for an increase in legal service hours for the Division of Motor Vehicles (DMV) that really is four separate issues rolled into one package. To assist the Committee in understanding the total request, staff is making recommendations on each individual part of this request. During the supplemental process, staff recommended against funding two of the requests described below because they did not meet supplemental criteria and suggested that they were more properly requested during the regular budget process. As a result, staff now recommends funding the entire request which totals 1300 hours in FY 2015-16. Below is more detail for the areas the DMV requires Department of Law Support.

Support of DMV Driver License Revocation Appeals
The Department of Law (DOL) monitors driver's license revocation appeals to district courts and assists district attorneys in representations. In FY 2013-14, the DMV saw 198 revocations appealed to district courts and the DMV anticipates the number of appeals will be comparable in FY 2014-15 and going forward. The Department has requested the DOL increase its outreach to the district attorneys to provide consultation and training on procedural and substantive issues that arise in these appeals. For example, although these appeals are record reviews by the district court, recently drivers have begun including civil rights claims under 42 U.S.C. Section 1983. DOL attorneys defend the DMV and State against these claims for damages and attorneys' fees. In addition, the DOL now reviews district court decisions and provides advice and recommendations to the DMV on questions related to appeals. The number of appeals from district court rulings varies but averages three per month. Because of limited resources, the DMV has not utilized the DOL for these purposes. As part of a review of DMV operations, however, the Department determined greater coordination and consistency was needed through increased outreach by the DOL to the district attorneys, as well as the need for more comprehensive legal advice on decisions the Department must make regarding appeals to the Colorado Court of Appeals. These efforts require an additional 500 hours per year.

Recommendation: Staff recommends funding the 500 hours per year for DMV Driver License Revocation Appeals.

DMV Rule Review
The DMV has targeted 20 percent of all its rules for annual review in furtherance of Executive Order D 2012-002 (Regulatory Efficiency Reviews). The DMV currently has 31 rules ranging from 1 to 34 pages in length each and covering a wide range of subject matter areas. The DMV has included 15 categories of rules it wishes to address on its 2015 regulatory agenda. Additional legal resources are required to ensure regulations comply with the authorizing statutes, amendments, and appellate decisions. The DOL is estimating an increase of 400 hours annually for this purpose.

Recommendation: Staff recommends funding the 400 hours per year for DMV Rule Review.

DMV Contract Review

The DMV has three large IT procurements underway requiring the DOL to review contracts and represent the Department in procurement protest litigation. As a comparison, the recent Lottery Commission protest that ended in successful litigation at the District Court cost approximately $30,000 or 303 hours. The DOL estimates an additional 200 hours will be needed in FY 2015-16 to advise the DMV on issues related to implementing new IT systems.

Recommendation: Staff recommends funding the 200 hours requested for contract review of the large IT procurements undertaken by the Department.

Real ID Recertification and Compliance

The federal REAL ID Act requires recertification by the federal Department of Homeland Security in 2015 to ensure State laws and regulations and the DMV's operations are in compliance with federal law regarding the security of state-issued driver's licenses and identification cards and verification of lawful presence. This will require DOL attorneys to review DMV statutes and rules and advise the DMV on whether they are in compliance with the REAL ID Act. This will promote the issuance of a positive compliance letter from the Attorney General, required for full compliance with REAL ID. In FY 2015-16, 200 hours of legal services will be needed for this purpose.

Recommendation: Staff recommends continuing the funding the 200 hours requested for Real ID Recertification and Compliance.

MEMORANDUM

TO: Joint Budget Committee

FROM: Scott Thompson, JBC Staff (x4957)

SUBJECT: Informational: State Lottery Funding and Limited Gaming

DATE: March 13, 2015

During figure setting for the Department of Revenue on March 2, 2015, the Committee requested more information on how the line items are set for the state lottery and whether all of the line items in the limited gaming are continuously appropriated. This document provides that information.

State Lottery

In the staff figure setting document from March 2, 2015, two line items in the State Lottery included language in the description that called the appropriation a "variable appropriation" that was adjusted yearly during the supplemental process. These were the Retailer Compensation and Ticket Costs line items.

After doing some background investigation and discussing the line items with the Department, staff confirmed that the decision was made a few budget cycles ago to provide the State Lottery with sufficient appropriations for these line items to avoid the need for the Department to come back during the supplemental budget process.

Expenditures from these line items are dependent on the specific outcomes of the lottery games offered by the State Lottery. For example, when the PowerBall jackpot increases significantly, not having the cash fund spending authority would limit the State Lottery's ability to meet contractual obligations to pay commissions and cashing bonuses to lottery retailers.

With this information, staff stands by the original recommendation already approved by the Committee and this issue does not require Committee action.

Limited Gaming

In the staff figure setting document from March 2, 2015, staff indicated that the entire subdivision of Limited Gaming in the Enforcement Business Group is included in the Long Bill for informational purposes. Staff concludes that this is an accurate representation for the Limited Gaming Division.

The budget for the line items within the Limited Gaming Division are set by the Limited Gaming Commission. The Limited Gaming Commission has authority provided by Section 9 of Article XVIII of the Colorado Constitution, to submit vouchers to the State Treasurer who is directed to pay all the ongoing expenses of the Limited Gaming Commission related to the administration of

Limited Gaming, and that such payments "shall not be conditioned on any appropriation by the General Assembly."

The General Assembly also enacted law in Section 12-47.1-701(1)(b)(I), C.R.S., that states all moneys paid into the limited gaming fund shall be available immediately, without further appropriation, for the purposes of the fund. The statute further states that the State Treasurer is instructed to pay all ongoing expenses of the Limited Gaming Commission, the Department of Revenue, the Division of Limited Gaming, and any other state agency for that assists in administration of the program that are submitted by the Commission, the Director of the Division, or the Executive Director of the Department of Revenue.

With this information, staff stands by the original recommendation already approved by the Committee and this issue does not require Committee action.

For informational purposes, below are the actual distributions for FY 2012-13 and FY 2013-14 that are made from the Limited Gaming fund after the Department's administrative expenses:

Limited Gaming Fund Distribution

		FY 2012-13	FY 2013-14	Change
A	Colorado Historical Society	23,633,195	23,475,304	(157,891)
B	Creative Industries Cash Fund	2,000,000	2,000,000	0
C	Local Government Limited Gaming Impact Fund	5,000,000	5,000,000	0
D	Colorado Travel & Tourism Promotion Fund	15,000,000	15,000,000	0
E	Colorado Office of Film, TV, and Media Operational Cash Fund	500,000	500,000	0
F	Innovative Higher Education Research Fund	2,100,000	2,100,000	0
G	Bioscience Discovery Evaluation Grant Program	5,500,000	5,500,000	0
H	**Total Payments to Other State Agencies**	**53,733,195**	**53,575,304**	**(157,891)**
I	City of Black Hawk	6,174,172	6,244,431	70,259
J	City of Central City	795,932	733,603	(62,329)
K	City of Cripple Creek	1,470,322	1,406,003	(64,319)
L	Gilpin County	8,364,125	8,373,641	9,516
M	Teller County	1,764,387	1,687,203	(77,184)
N	**Total Payment Due to Other Governments**	**18,568,938**	**18,444,881**	**(124,057)**
O	**Amount Due to the General Fund**	**12,102,134**	**11,820,185**	**(281,949)**
P	**Amount Due to Original Recipients (H + N + O)**	**84,404,267**	**83,840,370**	**(563,897)**
Q	Cities of Black Hawk, Central and Cripple Creek	828,255	837,900	9,645

Limited Gaming Fund Distribution				
		FY 2012-13	FY 2013-14	Change
R	Gilpin and Teller Counties	993,905	1,005,480	11,575
S	Community College System	6,460,388	6,535,622	75,234
T	**Amount Due to Extended Gaming Recipients (Q+ R + S)**	**8,282,548**	**8,379,002**	**96,454**
U	**Total Distribution (P + T)**	**92,686,815**	**92,219,372**	**(467,443)**

Below is a summary of the statutory distributions the General Assembly enacted for the Limited Gaming Fund.

Limited Gaming Distribution Pursuant C.R.S. 12-47.1-701(1)(d)

- Pursuant to section 9(5)(b)(II) of article XVIII of the Colorado Constitution, except for amounts required to be transferred to the extended limited gaming fund pursuant to section 12-47.1-701.5 (see next page), and except for an amount equal to all expenses of the administration of this article for the preceding two-month period, at the end of each state fiscal year, the state treasurer shall distribute the balance remaining in the limited gaming fund as follows:
    - 50 percent "state" share to general fund or other fund as designated by the general assembly.
        - $15,000,000 to Colorado travel and tourism.
        - FY 2012/2013 & FY 2013/2015 - $5,500,000 to bioscience discovery evaluation cash fund.
        - FY 2014/15 and beyond - $5,500,000 to the advanced industries acceleration cash fund.
        - $5,000,000 to local government limited gaming impact fund.
        - $2,100,000 to innovative higher education research fund.
        - $2,000,000 to the creative industries cash fund.
        - $500,000 to the Colorado office of film, television, and media operational account cash fund.
        - Remaining balance to general fund.
    - 28 percent to the state historical fund.
    - 12 percent to Gilpin and Teller counties in proportion to the gaming revenues generated in each county.
    - 10 percent to the governing bodies of Central City, Black Hawk, and Cripple Creek in proportion to the gaming revenues generated in each respective city.

Limited Gaming Distribution Pursuant C.R.S 12-47.1-701.5 – Revenues attributable to local revisions to gaming limits

- 78 percent to state's public community colleges.
- 10 percent to governing bodies of Central City, Black Hawk, and Cripple Creek based on proportion of extended limited gaming tax revenues that are paid by licensees operating in each city.
- 12 percent to governing bodies of Gilpin and Teller counties based on proportion of extended limited gaming tax revenues that are paid by licensees operating in each county.