

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**FY 2016-17 STAFF BUDGET BRIEFING  
DEPARTMENT OF STATE**

**JBC Working Document - Subject to Change  
Staff Recommendation Does Not Represent Committee Decision**

**Prepared By:  
Carly Jacobs, JBC Staff  
December 18, 2015**

For Further Information Contact:

Joint Budget Committee Staff  
200 E. 14th Avenue, 3rd Floor  
Denver, Colorado 80203  
Telephone: (303) 866-2061  
TDD: (303) 866-3472

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## DEPARTMENT OF STATE

### Department Overview

The Secretary of State is one of five independently-elected constitutional officers and serves as the chief election official for the state of Colorado. The Department of State is broadly responsible for overseeing elections, registering businesses, and publishing information and records for public use. The Department consists of four divisions:

#### **Administration Division**

- Provides general management and administrative support for all department divisions including budgeting, human resources services, and public outreach.

#### **Information Technology Services**

- Provides technical and project management services, systems development, and support for information technology systems in the Department, including:
  - the web-based filing systems used by the Business and Licensing Division; and
  - the computerized statewide voter registration and elections management system (SCORE).

#### **Elections Division**

- Administers statewide statutory and constitutional provisions that relate to elections, including the administration of the initiative and referendum process.
- Certifies voting equipment.
- Implements the provisions of the federal Help America Vote Act (HAVA), including the improvements to the administration of federal elections.
- Maintains the State of Colorado Registration and Elections (SCORE) system, the State's computerized statewide voter registration system.
- Oversees campaign finance reporting by political candidates and committees.

#### **Business and Licensing Division**

- Collects, maintains, and provides public access to filings made by businesses and non-profit organizations (e.g. annual reports, articles of incorporation etc.).
- Registers business names, trade names, and trademarks.
- Registers charitable organizations and licenses entities involved in charitable bingo/raffle.
- Registers lobbyists and monitors the filing of required disclosure reports.
- Licenses and regulates notaries public.
- Compiles and publishes the Code of Colorado Regulations (CCR).
- Oversees the Business Intelligence Center and coordinates the Go Code Colorado statewide application challenge.

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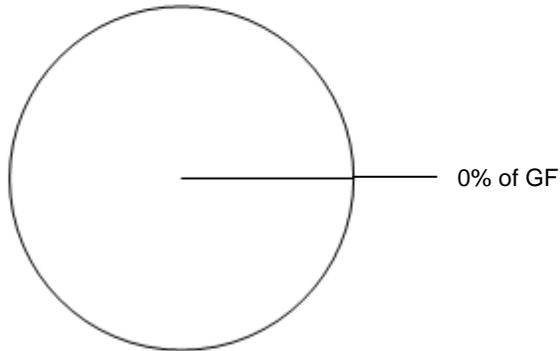
**Department Budget: Recent Appropriations**

| <b>Funding Source</b>  | <b>FY 2013-14</b>   | <b>FY 2014-15</b>   | <b>FY 2015-16</b>   | <b>FY 2016-17 *</b> |
|------------------------|---------------------|---------------------|---------------------|---------------------|
| General Fund           | \$0                 | \$0                 | \$0                 | \$0                 |
| Cash Funds             | 23,406,861          | 22,508,337          | 21,580,286          | 22,309,135          |
| Reappropriated Funds   | 0                   | 0                   | 0                   | 0                   |
| Federal Funds          | <u>0</u>            | <u>0</u>            | <u>0</u>            | <u>0</u>            |
| <b>Total Funds</b>     | <b>\$23,406,861</b> | <b>\$22,508,337</b> | <b>\$21,580,286</b> | <b>\$22,309,135</b> |
| Full Time Equiv. Staff | 139.0               | 137.3               | 137.3               | 137.3               |

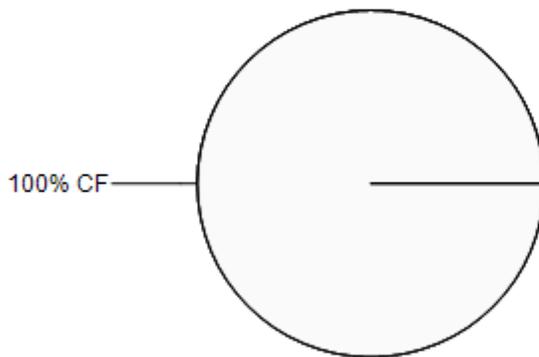
\*Requested appropriation.

## Department Budget: Graphic Overview

**Department's Share of Statewide  
General Fund**



**Department Funding Sources**

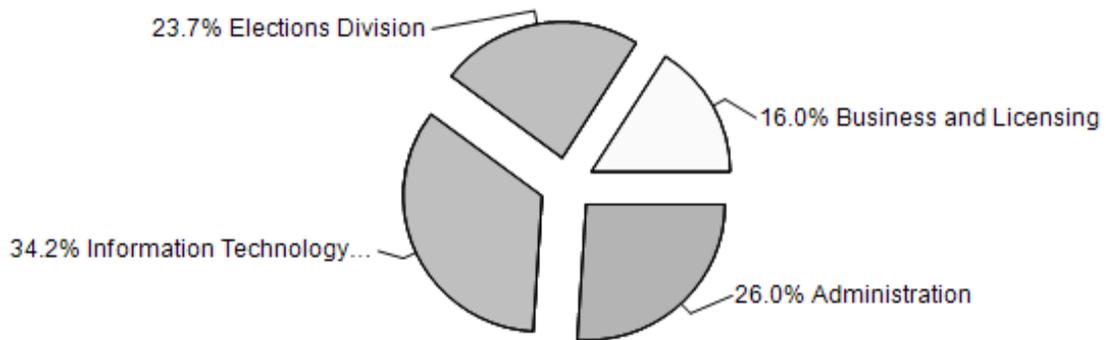


All charts are based on the FY 2015-16 appropriation.

**Distribution of General Fund by Division**

The Department of State does not receive any General Fund appropriations.

**Distribution of Total Funds by Division**



All charts are based on the FY 2015-16 appropriation.

## General Factors Driving the Budget

The budget for the Department of State is driven by three major factors:

1. the volume of business filings, which generate nearly all the cash fund revenue used to support department programs through the associated fees;
2. department-wide expenses related to the administration of elections; and
3. information technology projects required to support elections and business filing processes.

### CASH FUND REVENUES

#### *Business Filing Fees*

The Department is entirely cash-funded through the Department of State (DOS) Cash Fund and the Federal Elections Assistance Fund.<sup>1</sup> Cash fund revenues are driven almost entirely by the volume of business filings and the fees associated with each filing, with an average of 83.5 percent of all Department revenue accounted for by the business filing fees alone. Fees from other programs including bingo-raffle licensing, campaign finance reporting, and the registration of lobbyists and notaries public account for the remainder. The following table shows annual totals for business filings, revenue from business filing fees, and total cash fund revenue for the Department of State Cash Fund over the past five years:

|            | Total Business Filings | Revenue from Business Filing Fees* | Total DOS CF Revenue |
|------------|------------------------|------------------------------------|----------------------|
| FY 2010-11 | 634,078                | \$15,072,872                       | \$18,111,700         |
| FY 2011-12 | 625,078                | \$14,700,605                       | \$17,298,268         |
| FY 2012-13 | 682,949                | \$12,749,090                       | \$14,838,261         |
| FY 2013-14 | 696,140                | \$16,335,768                       | \$20,869,466         |
| FY 2014-15 | 748,368                | \$16,981,602                       | \$19,878,791         |

\*This column shows revenues from business filing fees only, and excludes revenue from other programs within the Business & Licensing Division.

Pursuant to Section 24-21-104, C.R.S., the Secretary of State is authorized to "adjust fees so that the revenue generated from the fees approximates [the Department's] direct and indirect costs" and to manage the uncommitted reserve in the DOS Cash Fund. In some years, this has included fee holidays, which significantly reduce the fee for certain types of filings over a discrete period of time. Additionally, it is currently Department policy to conduct regular competitiveness review when setting fee amounts to keep business filing fees at or near the lowest rate in the country.

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<sup>1</sup> The Federal Elections Assistance Fund is a cash fund created to receive federal funds for the administration of the Help America Vote Act (HAVA). As such, these funds are treated as cash funds rather than federal funds, but are continuously appropriated to the Department for approved purposes.

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*History of General Fund Appropriations and Transfers*

The Department of State has been cash funded for more than 30 years. According to JBC Appropriations History records, the Department has not received any direct General Fund appropriations in the Long Bill since S.B. 83-375 was enacted (FY 1983-84). However, General Fund transfers to and from Department cash funds have happened on occasion. The following table shows Department data on transfers between cash funds and the General Fund for the years when records were available:

| <b>Department of State – General Fund Transfers</b> |                    |                    |  |
|---|--------------------|--------------------|--|
|   | CF to GF           | GF to CF           | Authorizing Legislation  |
| FY 2001-02  | \$1,200,000        | \$0                | H.B. 02-1391 from DOS Cash Fund  |
| FY 2002-03  | 2,700,000          | 0                  | S.B. 03-188 and S.B. 03-191 from DOS Cash Fund   |
| FY 2008-09  | 2,750,000          | 0                  | Total Transfers in FY 2008-09<br><i>S.B. 09-208 from DOS Cash Fund (\$2.175 million)</i><br><i>S.B. 09-208 from Notary Cash Fund (\$575,000)</i> |
| FY 2013-14  | 0                  | 2,175,000          | H.B. 14-1341 to DOS Cash Fund  |
| <b>Total</b>  | <b>\$6,650,000</b> | <b>\$2,175,000</b> |  |

**DEPARTMENT EXPENDITURES**

The Department's budget has been divided into four divisions since FY 2013-14: Administration, Information Technology Services, Elections, and Business and Licensing. The following table shows FTE by division from FY 2013-14 through the request for FY 2016-17.

| <b>Department of State – Distribution of FTE</b> |                |                                       |                       |                                       |       |
|--|----------------|---------------------------------------|-----------------------|---------------------------------------|-------|
|  | Administration | Information<br>Technology<br>Services | Elections<br>Division | Business and<br>Licensing<br>Division | Total |
| FY 2013-14 Actual                                | 17.8           | 36.0                                  | 27.1                  | 38.5                                  | 119.3 |
| FY 2014-15 Actual                                | 19.4           | 37.3                                  | 27.1                  | 40.1                                  | 123.8 |
| FY 2015-16 Appropriation                         | 19.0           | 36.0                                  | 34.2                  | 48.1                                  | 137.3 |
| FY 2016-17 Request                               | 19.0           | 36.0                                  | 34.2                  | 48.1                                  | 137.3 |

***Elections Division and Related Expenditures***

A large proportion of Department expenditures are driven by costs associated with the administration of elections. According to Department estimates from February 2015, the direct and indirect costs of the Elections Division currently account for approximately 68 percent (\$14.7 million) of the Department's total budget. Of this amount, \$8.0 million is for the direct expenses of the Elections Division, which also includes elections-related expenditures in the Administration, Information Technology Services, and Business and Licensing Divisions. The remaining amount is attributed to indirect expenses, e.g. expenses that cannot be specifically attributed to either the Business and Licensing Division or the Elections Division.

The Department declined to provide updated figures or additional data under the advisement of the Office of the Attorney General due to ongoing litigation, but indicated the estimates in the

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analysis from last year are still accurate. However, the Department did provide some data on internal, external, and HAVA elections expenditures, which vary based on a number of factors including growth in the population of eligible voters, election cycles, and changes in election law. This information is largely captured in the actual and appropriated amounts in Long Bill line items for the Elections Division.

*Internal Elections Expenditures*

Annual variations in internal elections expenditures are primarily the result of fluctuations in personal services expenses and changes in the number the legal services hours required by the Elections Division. Legal services expenditures were first fully recognized by program in FY 2007-08, and have averaged approximately \$320,000 for the Elections Division over the past five years. Please note, the FY 2011-12 and FY 2012-13 increases in operating expenses were related to participation in the Electronic Registration Information System (ERIC) project, including appropriations of \$245,000 and \$170,000, respectively, and a supplemental that rolled forward the FY 2011-12 appropriation into FY 2012-13.

The following table outlines internal expenditures from FY 2005-06 through FY 2013-14:

| <b>Department of State – Internal Elections Expenditures</b> |                    |                    |                    |                    |                    |                    |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|  | FY 10-11           | FY 11-12           | FY 12-13           | FY 13-14           | FY 14-15           | FY 15-16           |
|  | Actual             | Actual             | Actual             | Actual             | Actual             | Approp.            |
| <b><u>Elections Division</u></b>                             |                    |                    |                    |                    |                    |                    |
| Personal Services  | \$1,828,723        | \$1,725,146        | \$2,277,610        | \$2,056,543        | \$1,984,711        | \$2,187,020        |
| Operating Expenses   | 160,379            | 235,173            | 378,427            | 243,596            | 196,915            | 267,838            |
| <b><u>Administration Division</u></b>                        |                    |                    |                    |                    |                    |                    |
| Legal Services for Elections                                 | 350,570            | 472,876            | 281,845            | 260,999            | 240,512            | 448,103            |
| Leased Space   | <u>132,554</u>     | <u>113,005</u>     | <u>169,608</u>     | <u>155,685</u>     | <u>147,321</u>     | n/a*               |
| <b>TOTAL</b>   | <b>\$2,472,226</b> | <b>\$2,546,200</b> | <b>\$3,107,490</b> | <b>\$2,716,823</b> | <b>\$2,569,459</b> | <b>\$3,071,858</b> |

\*As of FY 2015-16, the Department no longer tracks leased space by division.

*External Elections Expenditures*

The following table includes data for two line items that capture elections expenditures that are external to the Department from FY 2010-11 through the appropriation for FY 2015-16:

| <b>Department of State – External Elections Expenditures</b> |                    |                    |                    |                    |                    |                    |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
|  | FY 10-11           | FY 11-12           | FY 12-13           | FY 13-14           | FY 14-15           | FY 15-16           |
|  | Actual             | Actual             | Actual             | Actual             | Actual             | Approp.            |
| <b><u>Elections Division</u></b>                             |                    |                    |                    |                    |                    |                    |
| Initiative and Referendum                                    | \$40,493           | \$184,253          | \$208,143          | \$149,114          | \$82,396           | \$150,000          |
| Local Election Reimbursement                                 | <u>1,666,033</u>   | <u>1,541,360</u>   | <u>2,226,707</u>   | <u>2,455,163</u>   | <u>2,409,260</u>   | <u>2,500,000</u>   |
| <b>TOTAL</b>   | <b>\$1,706,526</b> | <b>\$1,725,613</b> | <b>\$2,434,850</b> | <b>\$2,604,277</b> | <b>\$2,491,656</b> | <b>\$2,650,000</b> |

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The *Initiative and Referendum* line item funds the verification of signatures on candidate and initiative petitions. Department expenditures on signature verification depend on the year and number of initiatives on the ballot. Initiatives on the ballot for odd-year elections are limited to TABOR-related matters, but there are no restrictions on the types of initiatives for even-year elections (presidential and gubernatorial election years). As a result even-year expenditures are generally higher and the appropriation for this line item has alternated between \$150,000 (odd-year) and \$250,000 (even-year) to better reflect this pattern of expenditures.

The *Local Election Reimbursement* line item reimburses counties for costs related to statewide ballot issues and questions on a 'per voter' basis. These expenditures are driven by the number of eligible registered voters in each county, which typically increases during even years due to the voter registration drives that precede general elections. Increases in Local Election Reimbursements are also driven by statutory changes that increase reimbursement rates or increase the number of eligible registered voters.

***HAVA Expenditures***

The federal Help America Vote Act of 2002 (HAVA) required the state to replace outdated voting technology, ensure accessibility for disabled voters, and institute a statewide voter registration system. To date, the Department has received \$45.8 million in federal funds and \$2.6 million in matching funds from the DOS Cash Fund to help administer HAVA. Pursuant to Section 1-1.5-106 (2) (b), C.R.S., these moneys are continuously appropriated as cash funds through the Federal Elections Assistance Fund and are included in the budget for informational purposes only.

The Federal Elections Assistance Fund has a current balance of approximately \$2.2 million. In FY 2016-17, the Department anticipates between \$350,000 and \$400,000 in expenditures from the fund for two major projects: 1) improvements to the SCORE system related to online voter registration; and 2) the provision of a ballot drop box for each county in the state. The Department does not anticipate any additional federal funding and HAVA funds are expected to be exhausted in the next several years. The following table summarizes HAVA expenditures from FY 2010-11 through estimates for FY 2015-16:

| <b>Department of State – HAVA Expenditures</b> |                    |                    |                    |                  |                  |                  |
|--|--------------------|--------------------|--------------------|------------------|------------------|------------------|
|  | <b>FY 10-11</b>    | <b>FY 11-12</b>    | <b>FY 12-13</b>    | <b>FY 13-14</b>  | <b>FY 14-15</b>  | <b>FY 15-16</b>  |
|  | <b>Actual</b>      | <b>Actual</b>      | <b>Actual</b>      | <b>Actual</b>    | <b>Actual</b>    | <b>Estimate</b>  |
| <b><u>Help America Vote Act Program</u></b>    |                    |                    |                    |                  |                  |                  |
| Personal Services                              | \$367,559          | \$723,860          | \$50,155           | \$65,358         | \$74,686         | \$0              |
| Contractors                                    | 1,428,817          | 424,166            | 56,593             | 245,299          | 317,687          | 110,000          |
| Operating Expenses                             | 459,185            | 351,183            | 874,637            | 147,718          | 10,543           | 5,000            |
| Grants   | 135,073            | 96,081             | 172,333            | 256,050          | 28,959           | 36,567           |
| Capitalized Property Purchases                 | 367,843            | 0                  | 0                  | 39,925           | 0                | 500,887          |
| Transfers                                      | <u>5,000</u>       | <u>5,000</u>       | <u>5,000</u>       | <u>0</u>         | <u>0</u>         | <u>0</u>         |
| <b>TOTAL</b>                                   | <b>\$2,763,477</b> | <b>\$1,600,290</b> | <b>\$1,158,718</b> | <b>\$754,349</b> | <b>\$431,876</b> | <b>\$652,454</b> |

## **INFORMATION TECHNOLOGY SERVICES PROJECTS**

The Information Technology Services (ITS) Division provides most of the technology support for other divisions in the Department.

*Business and Licensing Division:* Most of the business filing processes, public records resources, certification programs, and other services provided by the Department are handled electronically with 2,500 web-based transactions (i.e. filings with fees) processed daily.

*Elections Division:* The ITS Division currently has 4.75 FTE dedicated exclusively to elections projects, including the federally-mandated computerized statewide voter registration and election management system, known as the State of Colorado Registration and Elections (SCORE) system. SCORE is required by the Help America Vote Act, and its creation has been primarily funded by the Federal Elections Assistance Fund. The federal funding, which was considered "seed" money, has largely been exhausted and the funding for SCORE, and other HAVA requirements is being transferred to the Department of State Cash Fund.

## **OTHER FACTORS DRIVING THE BUDGET**

### *Business and Licensing Division Expenditures*

The Business and Licensing Division accounts for 16.0 percent of the Department's total budget. The *Business Intelligence Center* program (BIC) accounts for 22.4 percent of the FY 2015-16 appropriation for the Business and Licensing Division. Approximately half of the funding for BIC is used to put on the Go Code Colorado statewide application challenge event. The program also receives financial contributions and in-kind donations from sponsors totaling \$195,000 for the 2014 challenge, and \$231,000 for the 2015 challenge. However, according to a November 2015 performance audit of the Department by the Office of the State Auditor, these amounts are not currently reflected in the Department's budget or in the state financial accounting system CORE. The remainder of the Business and Licensing budget goes toward other division programs and services, e.g. business filings, bingo/raffle, notaries public, lobbyist registrations etc.

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**Summary: FY 2015-16 Appropriation & FY 2016-17 Request**

| Department of State                       |                     |                 |                     |                         |                  |              |
|---|---------------------|-----------------|---------------------|-------------------------|------------------|--------------|
|   | Total<br>Funds      | General<br>Fund | Cash<br>Funds       | Reappropriated<br>Funds | Federal<br>Funds | FTE          |
| <b>FY 2015-16 Appropriation</b>           |                     |                 |                     |                         |                  |              |
| SB 15-234 (Long Bill)                     | <u>\$21,580,286</u> | <u>\$0</u>      | <u>\$21,580,286</u> | <u>\$0</u>              | <u>\$0</u>       | <u>137.3</u> |
| <b>TOTAL</b>                              | <b>\$21,580,286</b> | <b>\$0</b>      | <b>\$21,580,286</b> | <b>\$0</b>              | <b>\$0</b>       | <b>137.3</b> |
| <b>FY 2016-17 Requested Appropriation</b> |                     |                 |                     |                         |                  |              |
| FY 2015-16 Appropriation                  | \$21,580,286        | \$0             | \$21,580,286        | \$0                     | \$0              | 137.3        |
| R1 Additional vehicle                     | 3,255               | 0               | 3,255               | 0                       | 0                | 0.0          |
| Non-prioritized requests                  | 12,383              | 0               | 12,383              | 0                       | 0                | 0.0          |
| Centrally appropriated line items         | 389,913             | 0               | 389,913             | 0                       | 0                | 0.0          |
| Annualize prior year budget actions       | 295,474             | 0               | 295,474             | 0                       | 0                | 0.0          |
| Indirect cost assessment                  | <u>27,824</u>       | <u>0</u>        | <u>27,824</u>       | <u>0</u>                | <u>0</u>         | <u>0.0</u>   |
| <b>TOTAL</b>                              | <b>\$22,309,135</b> | <b>\$0</b>      | <b>\$22,309,135</b> | <b>\$0</b>              | <b>\$0</b>       | <b>137.3</b> |
| <b>Increase/(Decrease)</b>                | \$728,849           | \$0             | \$728,849           | \$0                     | \$0              | 0.0          |
| Percentage Change                         | 3.4%                | 0.0%            | 3.4%                | 0.0%                    | 0.0%             | 0.0%         |

**Description of Requested Changes**

**R1 Additional vehicle:** The request includes an increase of \$3,255 cash funds to lease one additional vehicle for employee use and upgrade an existing two-wheel drive vehicle to a four-wheel drive model.

**Non-prioritized requests:** The request includes an increase of \$12,383 cash funds for non-prioritized requests including funding for administrative law judge services and fleet vehicle replacements in Department of Personnel, and FY 2016-17 funding for Secure Colorado in Governor's Office of Information Technology.

**Centrally appropriated line items:** The request includes adjustments to centrally appropriated line items for the following: state contributions for health, life, and dental benefits; short-term disability; supplemental state contributions to the Public Employees' Retirement Association (PERA) pension fund; salary survey; merit pay; workers' compensation; legal services; administrative law judges; payment to risk management and property funds; vehicle lease payments; leased space; and CORE operations.

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**Annualize prior year budget actions:** The request includes the annualization of prior year salary survey and merit pay, as well as a standard annual adjustment to funding for signature verification on initiative and referendum petitions.

**Indirect cost assessment:** The request includes an increase of \$27,824 cash funds to reflect adjustments to indirect cost assessment line items as part of the Statewide Indirect Cost Plan.

## **Issue: Audit Findings and Recommendations Regarding Cash Fund Management and Budgeting Processes**

The Office of the State Auditor (OSA) released a performance audit of the Department of State on December 8, 2015. This issue brief provides an overview of problems identified with the Department's cash fund management and budgeting processes, as well as the recommendations from the OSA and the Department's response.

### **SUMMARY:**

- The Office of the State Auditor released a performance audit of the Department of State on December 8, 2015. One of the primary objectives of the audit was to determine whether the Department has adequate budgeting processes in place to establish, assess, and revise fees so it can comply with the statutory requirements regarding cash fund management.
- The audit identified problems with Department's cash fund management and indicated that the Department has not been setting fees at appropriate levels to ensure that revenue correlated with incurred costs. Fee holidays were specifically identified as both a contributing factor and symptom of the problems with cash fund management.
- The audit also found that the Department lacks formal procedures to prepare, review, and approve budget requests submitted to the Joint Budget Committee. Recent budget requests were found to contain numbers that were unsupported by documentation and did not show evidence of formal internal reviews or approval.
- The Department agreed with each of the recommendations made by the auditor and indicated it intends to: (1) create and implement a formal cash fund management policy by July 2016; (2) produce written policies and procedures for the preparation of the annual budget by July 2016; and (3) establish a formal process and schedule for reviewing fees by July 2017.

### **RECOMMENDATION:**

Staff recommends the Committee:

1. consider sponsoring legislation that disallows the use of fee holidays by the Department of State;
2. consider a three-year waiver under Section 24-75-402 (8), C.R.S. to exempt an amount equal to the appropriation for local election reimbursement from the statutory reserve limits on the Department of State Cash Fund; and
3. discuss the Department's plans to implement the audit recommendations and ensure improved cash fund management and budgeting processes going forward, as well as how the Department expects formal documentation of processes and practices to affect outcomes.

## **DISCUSSION:**

The Office of the State Auditor (OSA) released a performance audit of the Department of State on December 8, 2015.<sup>1</sup> One of the primary objectives of the audit was to determine whether the Department has adequate budgeting processes in place to establish, assess, and revise fees so that it can comply with the statutory requirements regarding cash fund management. This issue brief provides an overview of the problems identified with the Department's cash fund management and budgeting processes, as well as the recommendations from the OSA and the Department's response.

### ***Background***

As mentioned in the section on General Factors Driving the budget (page 5 of this packet), the Department of State is almost entirely supported by fee revenue, more than 80 percent of which comes from business filing fees. Fee revenue is collected in the Department of State (DOS) Cash Fund, which is the primary cash fund supporting all Department operations. The Department is obligated by statute to set fees so that revenue approximates total costs (Section 24-21-104, C.R.S.) except when the uncommitted reserve exceeds the 16.5 percent statutory reserve limit (Section 24-75-402, C.R.S). The Department's annual budget request is based on expected cash fund revenues and anticipated expenditures.

### ***Department of State Cash Fund Management***

The audit identified problems with Department's cash fund management. Specifically, *the Department lacks formal documented processes to ensure that its cash fund revenues approximate its expenditures.* The audit indicated that the Department has not been setting fees at appropriate levels to ensure that revenue correlated with incurred costs which led to significant fluctuations in fund balance over time, revenue shortfalls, and the use of fee holidays as a cash fund management tool. This is a result of the fact that (1) the department does not have defined objectives for managing the cash fund and (2) there are no procedures in place to establish, review, and revise fees to achieve those objectives.

### ***Fee Holidays***

The Department has used fee holidays to reduce excess balances in the DOS Cash Fund below the statutory limits on uncommitted reserves. During the period of time covered by the audit, the Department enacted two fee holidays (October 2012 to February 2013 and July to October 2014) where fees for certain business filings were significantly reduced. However, fee holidays were specifically identified as both a contributing factor and symptom of the problems with cash fund management. On one hand, short-term reductions in fees decrease revenue which contributes to the fluctuations observed in the DOS Cash Fund balance. On the other hand, if the Department had a process for setting fees in a way that better approximated their anticipated expenses, fee holidays should never be necessary.

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<sup>1</sup> Colorado Office of the State Auditor, [Department of State Performance Audit](#), November 2015.

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The accumulation of a large fund balance is an indicator that the Department has not set fees appropriately so that revenue approximates costs. It essentially means the Department is overcharging the businesses paying the filing fees and the fee holidays function as a bulk refund of the excess revenue. As the audit report points out, using fees as a cash fund management strategy raises questions about equity in that reduced fees for businesses that file during a holiday are essentially subsidized by other businesses that file when the fee holiday is not in effect. Additionally, businesses that were overcharged are not necessarily the recipients of the refund during fee holidays.

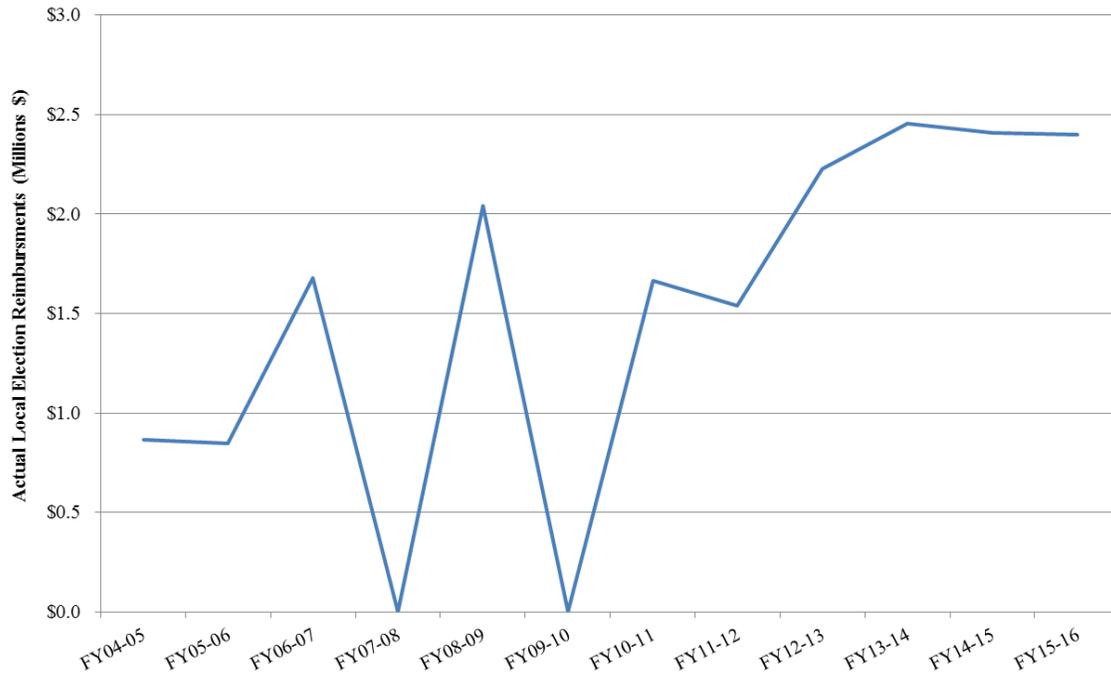
During testimony at the Legislative Audit Committee (LAC) hearing, Secretary Williams expressed a preference to implement a more moderate and/or continuous approach to fee adjustments by monitoring fees over time and making more incremental changes. However, staff is concerned that fee holidays may remain an attractive alternative, even though they are not necessary if the cash fund is managed properly. For example, in response to a question from the LAC, the Department reported very favorable reactions to fee holidays. The response referred to one of the larger fee reductions (i.e. a decrease the annual registration fee for bingo hall owners from \$1,000 to \$1), but it seems unlikely that any reduction in fees would be widely unpopular.

Current law would not prevent a return to the fee holiday model by the current or future Secretaries of State. As fee holidays are both unnecessary and a less-than-optimal strategy for cash fund management, ***staff recommends the Committee consider sponsoring legislation to disallow their use by the Department of State in the future.*** This would reinforce the audit recommendation and help to hold the Department accountable for both setting fees with precision and managing cash fund revenue to expenditures as required by statute. It would also ensure businesses pay the lowest filing fee required to support Department operations all of the time, rather than allowing a (relative) few to benefit from an occasional fee holiday.

***Local Election Reimbursement Requirements and Cash Fund Management***

The Department indicated the \$2.5 million appropriation for local election reimbursement in the Elections Division can make it challenging to manage the DOS Cash Fund balance from year to year. Statute requires the Department to provide reimbursements to counties based on the number of active voters in an election with a statewide ballot issue or question (Section 1-5-505.5, C.R.S.). The Department must assume the expenditure will be made in full when setting the annual budget because the deadline for the addition of statewide ballot measures is 57 days prior to the election (i.e. mid-September), several months after the start of the fiscal year. If there is not a statewide issue, no reimbursements are required and the \$2.5 million set aside for that purpose gets added to DOS Cash Fund reserve. The following figure shows actual expenditures on local election reimbursements from FY 2004-15 through FY 2015-16, which includes the most recent election:

### Department of State - Local Election Reimbursements



To eliminate the impact of this unpredictable expenditure and allow the Department to more precisely align fees with anticipated expenses, *staff recommends the Committee consider granting a three-year waiver under Section 24-75-402 (8), C.R.S., to exempt the amount required for local election reimbursement from the statutory reserve requirement for the DOS Cash Fund.* An alternative to the waiver is a permanent change to statute to allow the exemption of the local election reimbursement appropriation, which would require legislation. Staff is recommending the waiver over a more permanent statutory change for the time being to allow the Committee to evaluate whether the Department's cash fund management is improved with the exemption in place.

The Department is in favor of exempting local election reimbursements from the cash fund reserve limit, but prefers the permanent statutory change over the waiver recommended by staff. It views the waiver as a mechanism for dealing with short-term needs and argues that local election reimbursements are a long-term feature of the Department's cash fund obligations. Staff agrees that local election reimbursements will remain a perennial challenge but, in addition to allowing for evaluation, a waiver would provide some flexibility should the outcome of the pending litigation on elections-related funding impact the Department's budget in the near future. Either way, the objective of an exemption is to keep the Department from being penalized if it exceeds the statutory reserve limit because local election reimbursements are not required.

***Department of State Budgeting Processes***

The audit also found that *the Department lacks formal procedures to prepare, review, and approve budget requests submitted to the Joint Budget Committee.* Recent budget requests submitted to the Joint Budget Committee were found to contain numbers that were unsupported by documentation from the Department. According to the audit, the Department could not provide supporting documentation for any of the revenue and expenditures in the FY 2013-14 request, and over one third of the figures in the FY 2014-15 request. In other words, the Department could not show its work to demonstrate how various figures in at least two annual budget requests were calculated. The Department was, however, able to provide the auditor with supporting documentation for numbers in the FY 2015-16 request.

Additionally, the audit found that budget requests from FY 2013-14 through FY 2015-16 did not contain evidence of internal reviews or approval. The Department indicated that budget requests for these years were reviewed and approved verbally by management. The request for FY 2016-17 was officially approved and signed by the Department's Chief of Staff. The Department attributes the lack of documentation and other issues identified with the budgeting process to long-term personnel issues in the finance unit and the transition period that occurred while new staff were hired and trained.

***OSA Recommendation and Department Response***

The audit recommendation regarding cash fund management and budgeting processes is largely focused on internal changes to Department policy and procedures. In order to ensure that the cost of services provided is covered by revenue while the cash fund balance remains in compliance, the audit recommends establishing and documenting a strategic cash fund management plan, including:

- establishing objectives to support managing the [DOS] cash fund to its strategic goals;
- creating and implementing formal policies and procedures for setting fees in order to meet cash fund objectives and statutory reserve obligations; and
- formalizing written policies and procedures for the preparation and review of the Department's annual budget request.

The Department agreed with each part of the recommendation and indicated it intends to: (1) create and implement a formal cash fund management policy by July 2016 and (2) establish a formal process and schedule for reviewing fees by July 2017. With regard to formalizing budgetary practices, the Department cited improvements that have already been made (e.g. the provision of adequate supporting documentation for the FY 2015-16 request and the official review and approval of the FY 2016-17 request by the Department's Chief of Staff), but intends to produce written policies and procedures for the preparation of the annual budget by July 2016.

However, because the recommendations are focused on changes to internal practices, staff is concerned there is relatively little oversight of the implementation process. OSA staff indicated the Department would provide periodic self-reports on the implementation of the recommended

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changes, but that the OSA's evaluation of the Department is functionally complete at this time. *As such, staff recommends the Committee discuss the following during the Department's hearing: (1) the Department's plans to implement the audit recommendations and ensure improved cash fund management and budgeting processes going forward; and (2) how the Department expects formal documentation of processes and practices to affect outcomes.*

## **Issue: Audit Findings and Recommendations Regarding Oversight of the Business Intelligence Center**

The Office of the State Auditor (OSA) released a performance audit of the Department of State on December 8, 2015. This informational issue brief provides an overview of the problems identified with the Department's oversight of the Business Intelligence Center and the Go Code Colorado program, as well as the recommendations from the OSA and the Department's response.

### **SUMMARY:**

- The Office of the State Auditor released a performance audit of the Department of State on December 8, 2015. A primary objective of the audit was to determine whether the Department maintains adequate oversight, authority, accountability, and transparency of Business Intelligence Center (BIC) operations.
- The audit found that Department of State personnel do not follow best practices in the treatment of donations made to support BIC operations leading to a lack of transparency and accountability. Donations are not currently accounted for in the state's accounting system because revenue and expenditures are managed outside of the Department.
- The audit also indicated that BIC lacks oversight, structure, and documented policies, procedures, and processes. There is currently no definition of BIC or its responsibilities and objectives in statute.
- The Department agreed with each of the audit recommendations and indicated it will seek legislation during the 2016 session to establish BIC in statute and secure the statutory authority to accept gifts, grants, and donations for BIC. It also intends to develop formal internal documentation to clarify the structure of management and oversight for BIC and define the roles of the Executive Committee and Advisory Board.

### **DISCUSSION:**

The Office of the State Auditor (OSA) released a performance audit of the Department of State on December 8, 2015.<sup>1</sup> A primary objective of the audit was to determine whether the Department maintains adequate oversight, authority, accountability, and transparency of Business Intelligence Center (BIC) operations. This informational issue brief provides an overview of the audit findings related to BIC, the recommendations from the OSA to rectify the identified problems, and the Department's response.

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<sup>1</sup> Colorado Office of the State Auditor, [Department of State Performance Audit](#), November 2015.

## ***Background***

The Business Intelligence Center (BIC) program was established in FY 2013-14 to collect, standardize, publish, and maintain datasets of high value to the business community from across state agencies to improve access to public information. BIC has published a total of 154 datasets on the Colorado Information Marketplace to date and plans to add an additional 32 datasets by the end of FY 2015-16. The Department expects the volume of datasets published to decrease over time as more straightforward datasets are processed and made available, but anticipates the relative complexity of each new dataset will begin to increase.

BIC also hosts the Go Code Colorado statewide application challenge event, where teams of software developers and members of the Colorado business community are charged with developing apps that utilize the data gathered and maintained by BIC to solve business-related problems. As of this briefing, one of the three winning apps from the 2014 event—BeagleScore—is still operating. The three winning apps from the 2015 event are still being refined and are not yet available for public use. The Department is not aware of any non-winning apps from 2014 that were made publicly available, but indicated that two non-winning teams from 2015 had plans to move forward with app development.

### ***History Funding for the Business Intelligence Center and Go Code Colorado***

The General Assembly approved a total of \$2.25 million in funding for the first two years of the BIC program: \$775,000 in FY 2013-14 and \$1.5 million in FY 2014-15. BIC now has an ongoing appropriation of \$775,000 cash funds and 1.0 FTE authorized during the FY 2015-16 budget process, and accounts for just over 22 percent of annual appropriation for the Business and Licensing Division. Approximately half of BIC funding is used for the Go Code Colorado event. This is also supplemented by financial contributions and in-kind donations from various sponsors totaling \$195,000 for the 2014 challenge and \$231,000 for the 2015 challenge. As of September, the Department had received \$35,000 in financial contributions for the 2016 challenge which is scheduled to start in February 2016.

### ***Gifts, Grants, and Donations for BIC and Go Code Colorado***

The audit found that *Department of State personnel do not follow best practices in the treatment of donations made to support BIC operations* leading to a lack of transparency and accountability. The OSA outlined best practices for the use of gifts, grants, and donations, which can be characterized as a *reimbursement model*. State agencies are authorized to accept gifts, grants, and donations for a specified purpose in statute. To allow donations to be tax-deductible, agencies establish a relationship with not-for-profit organizations that receive contributions from donors. Agencies then request *reimbursements* for eligible expenditures from the 501(c)(3) organization using non-appropriated spending authority approved by the Office of the State Controller. As a result, these transactions (both expenditures and the subsequent reimbursements) are captured in the State's financial records, i.e. CORE.

The auditor determined that the Department has not followed best practices for donations made to BIC and Go Code Colorado. Instead of seeking reimbursements for expenditures, the Department uses a *third-party* or *direct payment model* to access donations for BIC and Go Code

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Colorado. Donations are made directly to Denver Civic Ventures (DCV), a 501(c)(3) non-profit organization which acts as a fiscal agent for donated revenues. The Department does not have statutory authority to accept gifts, grants, and donations for BIC, but has avoided a statutory violation because DCV maintains physical custody of the funds as an outside third-party. The BIC Program Manager then submits invoices directly to DCV which makes the payments on behalf of the Department. This means these transactions are not accounted for in the state's accounting system because revenue and expenditures are managed by DCV external to the Department.

Pursuant to Section 24-21-104.7, C.R.S., the Department is authorized to receive gifts, grants, and donations for the purpose of "exercising powers and performing the duties of the secretary of state as specified in Section 1-1-107, C.R.S.", which pertains to the administration of elections. The Department indicated it had consulted with the Office of the State Controller and was operating under the impression that the controller viewed this section of statute as providing sufficient authorization to accept donations for the purposes of BIC and the Go Code Colorado event.

As the audit report points out, the overall lack of transparency related to BIC and Go Code Colorado decreases accountability and increases the risk of non-compliance with fiscal rules. For example, while reviewing a sample of expenditures made by DCV under the Department's direction, the audit found non-compliance issues for 9 of 10 transactions in FY 2014, including:

- a total of \$1,000 in payments made to the same staff member that authorized those payments;
- \$5,000 issued outside the state payroll system to a temporary employee; and
- expenses totaling \$15,370 that did not have any supporting documentation.

The Department indicated that these issues were largely related to improper processing. For example, the \$5,000 payment was supposed to be billed as payment for contract services rather than payroll, and the Department found the expenditures without documentation were legitimate but not entered in the system properly. Additionally, the audit did not find any problematic transactions related to donations in FY 2014-15, which the Department attributes to internal improvements in accounting practices and documentation made by the current Program Manager for BIC.

*Use of Donations to Minimize Costs for BIC*

During the hearing with the Legislative Audit Committee, the Department indicated it had been encouraged by the Joint Budget Committee to use donations to minimize costs for BIC.<sup>2</sup> Additionally, the Department testified that it anticipated increasing the proportion of the program funded by gifts grants and donations over time. Staff requested more specific information on the Department's plan to transition BIC funding to donation-based revenue and the anticipated impact to appropriations from the DOS Cash Fund for the program. The Department's written response suggested that contributions from the private sector would more likely be used to cover

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<sup>2</sup> Relevant testimony begins at 51:43 in the audio recording of the Legislative Audit Committee meeting on December 8, 2015.

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additional expenditures in incremental steps as the program expanded, thus increasing the proportion funded by gifts, grants, and donations in the future. As such, the Department does not anticipate any near-term impact to Long Bill appropriations for the program.

The BIC program is still relatively new and financial donations account for less than 10 percent of total funding (i.e. the appropriation from the DOS Cash Fund plus average annual donations). The Department indicated it is hard to predict the amount of donations going forward. However, BIC and Go Code Colorado show potential for growth based on the current popularity of the program and, as the Department has pointed out, donations from the business community are an indicator of support. As such, staff intends to recommend the addition of an official Request for Information (RFI) from the Department during figure setting to keep track of the receipt and expenditure of financial and in-kind donations for the BIC and the Go Code Colorado program. This does not require any action on the part of the Committee at this time.

***Department Oversight of the Business Intelligence Center***

The audit found that the BIC *program lacks oversight, structure, and documented policies, procedures, and processes*. As a result, the audit was unable to determine whether BIC was meeting Department goals and program objectives. This is primarily due to the fact that there is currently no definition of BIC or its responsibilities and objectives in statute. Additionally, the auditor found that the Executive Committee and the BIC Advisory Board were not actually charged with governance or oversight of the program, as originally specified in the Department's April 2013 white paper detailing the creation of BIC.<sup>3</sup> Instead the audit found that these two bodies were either informational in nature (Executive Committee) or functioned as an operational working group (Advisory Board).

In discussions with JBC staff, the Department indicated that the intended role of the Executive Committee and Advisory Board had not been clearly communicated in that they were never meant to provide active oversight of the BIC program. As specified in the Department's response to the audit recommendations (detailed below), BIC is currently subject to the same organizational and oversight structure as all other programs where the Program Manager reports to Department management.

***OSA Recommendations and Department Response***

The audit recommendations regarding oversight and accountability of BIC operations include statutory changes via legislation as well as changes to internal policy and documentation. To improve the structure, accountability, and transparency of BIC, the audit recommends:

- working with the General Assembly to define objective, responsibilities and structure of BIC;
- creating formal roles for Department management, the Executive Committee, and the Advisory Board; and
- developing formal policies for BIC operations including those related to accounting for donations and related expenditures.

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<sup>3</sup> Colorado Department of State, "[The Colorado Business Intelligence Center: An Innovative Plan for Public Data Management and Economic Growth](#)", April 2013.

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The Department agreed with each of the audit recommendations and indicated it will seek legislation during the 2016 session to: (1) establish BIC in statute to formalize program operations and (2) secure proper authorization to accept gifts, grants, and donations for BIC and Go Code Colorado. After proper statutory authorization is approved, the Department intends to convert to the reimbursement model for donations as outlined in the audit report. Additionally, the Department intends to develop formal internal documentation clarifying the structure of management and oversight for BIC and defining the roles of the Executive Committee and Advisory Board.

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**Appendix A: Number Pages**

|  | <b>FY 2013-14<br/>Actual</b> | <b>FY 2014-15<br/>Actual</b> | <b>FY 2015-16<br/>Appropriation</b> | <b>FY 2016-17<br/>Request</b> | <b>Request vs.<br/>Appropriation</b> |
|--|------------------------------|------------------------------|-------------------------------------|-------------------------------|--------------------------------------|
|--|------------------------------|------------------------------|-------------------------------------|-------------------------------|--------------------------------------|

**DEPARTMENT OF STATE**  
**Secretary of State**

**(1) ADMINISTRATION**

|   |                  |                  |                  |                  |  |
|---|------------------|------------------|------------------|------------------|--|
| Personal Services   | <u>1,600,548</u> | <u>1,508,092</u> | <u>1,631,684</u> | <u>1,664,924</u> |  |
| FTE   | 17.8             | 19.4             | 19.0             | 19.0             |  |
| Cash Funds  | 1,600,548        | 1,508,092        | 1,631,684        | 1,664,924        |  |
| Health, Life, and Dental  | <u>273,763</u>   | <u>708,778</u>   | <u>1,047,002</u> | <u>1,030,749</u> |  |
| Cash Funds  | 273,763          | 708,778          | 1,047,002        | 1,030,749        |  |
| Short-term Disability   | <u>4,868</u>     | <u>17,368</u>    | <u>19,131</u>    | <u>16,148</u>    |  |
| Cash Funds  | 4,868            | 17,368           | 19,131           | 16,148           |  |
| S.B. 04-257 Amortization Equalization Disbursement              | <u>93,581</u>    | <u>265,000</u>   | <u>382,612</u>   | <u>427,131</u>   |  |
| Cash Funds  | 93,581           | 265,000          | 382,612          | 427,131          |  |
| S.B. 06-235 Supplemental Amortization Equalization Disbursement | <u>84,483</u>    | <u>265,000</u>   | <u>369,568</u>   | <u>422,682</u>   |  |
| Cash Funds  | 84,483           | 265,000          | 369,568          | 422,682          |  |
| Salary Survey   | <u>57,376</u>    | <u>216,883</u>   | <u>95,089</u>    | <u>1,071</u>     |  |
| Cash Funds  | 57,376           | 216,883          | 95,089           | 1,071            |  |
| Merit Pay   | <u>35,929</u>    | <u>84,574</u>    | <u>100,385</u>   | <u>0</u>         |  |
| Cash Funds  | 35,929           | 84,574           | 100,385          | 0                |  |

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|   | <b>FY 2013-14<br/>Actual</b> | <b>FY 2014-15<br/>Actual</b> | <b>FY 2015-16<br/>Appropriation</b> | <b>FY 2016-17<br/>Request</b> | <b>Request vs.<br/>Appropriation</b> |
|---|------------------------------|------------------------------|-------------------------------------|-------------------------------|--------------------------------------|
| Workers' Compensation                         | <u>14,078</u>                | <u>12,921</u>                | <u>14,187</u>                       | <u>19,198</u>                 |                                      |
| Cash Funds                                    | 14,078                       | 12,921                       | 14,187                              | 19,198                        |                                      |
| Operating Expenses                            | <u>278,054</u>               | <u>407,206</u>               | <u>500,816</u>                      | <u>500,816</u>                |                                      |
| Cash Funds                                    | 278,054                      | 407,206                      | 500,816                             | 500,816                       |                                      |
| Legal Services                                | <u>421,541</u>               | <u>457,529</u>               | <u>503,553</u>                      | <u>509,595</u>                |                                      |
| Cash Funds                                    | 421,541                      | 457,529                      | 503,553                             | 509,595                       |                                      |
| Administrative Law Judge Services             | <u>31,136</u>                | <u>33,136</u>                | <u>76,431</u>                       | <u>120,984</u>                | *                                    |
| Cash Funds                                    | 31,136                       | 33,136                       | 76,431                              | 120,984                       |                                      |
| Payment to Risk Management and Property Funds | <u>40,676</u>                | <u>53,338</u>                | <u>59,693</u>                       | <u>96,247</u>                 |                                      |
| Cash Funds                                    | 40,676                       | 53,338                       | 59,693                              | 96,247                        |                                      |
| Vehicle Lease Payments                        | <u>3,071</u>                 | <u>528</u>                   | <u>926</u>                          | <u>4,881</u>                  | *                                    |
| Cash Funds                                    | 3,071                        | 528                          | 926                                 | 4,881                         |                                      |
| Leased Space                                  | <u>641,271</u>               | <u>655,164</u>               | <u>636,211</u>                      | <u>718,739</u>                |                                      |
| Cash Funds                                    | 641,271                      | 655,164                      | 636,211                             | 718,739                       |                                      |
| CORE Operations                               | <u>40,140</u>                | <u>5,336</u>                 | <u>17,031</u>                       | <u>16,228</u>                 |                                      |
| Cash Funds                                    | 40,140                       | 5,336                        | 17,031                              | 16,228                        |                                      |
| Indirect Cost Assessment                      | <u>107,012</u>               | <u>128,983</u>               | <u>156,308</u>                      | <u>184,132</u>                |                                      |
| Cash Funds                                    | 107,012                      | 128,983                      | 156,308                             | 184,132                       |                                      |
| Discretionary Fund                            | <u>5,000</u>                 | <u>4,880</u>                 | <u>5,000</u>                        | <u>5,000</u>                  |                                      |
| Cash Funds                                    | 5,000                        | 4,880                        | 5,000                               | 5,000                         |                                      |

\*This line item includes a decision item.

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|   | <b>FY 2013-14<br/>Actual</b> | <b>FY 2014-15<br/>Actual</b> | <b>FY 2015-16<br/>Appropriation</b> | <b>FY 2016-17<br/>Request</b> | <b>Request vs.<br/>Appropriation</b> |
|---|------------------------------|------------------------------|-------------------------------------|-------------------------------|--------------------------------------|
| Purchase of Services from Computer Center | <u>165,228</u>               | <u>0</u>                     | <u>0</u>                            | <u>0</u>                      |                                      |
| Cash Funds                                | 165,228                      | 0                            | 0                                   | 0                             |                                      |
| Colorado State Network                    | <u>105,595</u>               | <u>0</u>                     | <u>0</u>                            | <u>0</u>                      |                                      |
| Cash Funds                                | 105,595                      | 0                            | 0                                   | 0                             |                                      |
| Information Technology Security           | <u>2,787</u>                 | <u>0</u>                     | <u>0</u>                            | <u>0</u>                      |                                      |
| Cash Funds                                | 2,787                        | 0                            | 0                                   | 0                             |                                      |
| <b>TOTAL - (1) Administration</b>         | 4,006,137                    | 4,824,716                    | 5,615,627                           | 5,738,525                     | 2.2%                                 |
| <i>FTE</i>                                | <u>17.8</u>                  | <u>19.4</u>                  | <u>19.0</u>                         | <u>19.0</u>                   | <u>0.0%</u>                          |
| Cash Funds                                | 4,006,137                    | 4,824,716                    | 5,615,627                           | 5,738,525                     | 2.2%                                 |

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|   | <b>FY 2013-14<br/>Actual</b> | <b>FY 2014-15<br/>Actual</b> | <b>FY 2015-16<br/>Appropriation</b> | <b>FY 2016-17<br/>Request</b> | <b>Request vs.<br/>Appropriation</b> |
|---|------------------------------|------------------------------|-------------------------------------|-------------------------------|--------------------------------------|
| <b>(2) INFORMATION TECHNOLOGY</b>         |                              |                              |                                     |                               |                                      |
| Personal Services                         | <u>5,590,874</u>             | <u>5,774,121</u>             | <u>4,723,907</u>                    | <u>4,796,771</u>              |                                      |
| FTE                                       | 36.0                         | 37.3                         | 36.0                                | 36.0                          |                                      |
| Cash Funds                                | 5,590,874                    | 5,774,121                    | 4,723,907                           | 4,796,771                     |                                      |
| Operating Expenses                        | <u>461,150</u>               | <u>793,600</u>               | <u>481,112</u>                      | <u>481,112</u>                |                                      |
| Cash Funds                                | 461,150                      | 793,600                      | 481,112                             | 481,112                       |                                      |
| Hardware/Software Maintenance             | <u>1,428,877</u>             | <u>1,236,201</u>             | <u>1,738,242</u>                    | <u>1,738,242</u>              |                                      |
| Cash Funds                                | 1,428,877                    | 1,236,201                    | 1,738,242                           | 1,738,242                     |                                      |
| Information Technology Asset Management   | <u>809,250</u>               | <u>501,269</u>               | <u>445,418</u>                      | <u>445,418</u>                |                                      |
| Cash Funds                                | 809,250                      | 501,269                      | 445,418                             | 445,418                       |                                      |
| <b>TOTAL - (2) Information Technology</b> | 8,290,151                    | 8,305,191                    | 7,388,679                           | 7,461,543                     | 1.0%                                 |
| FTE                                       | <u>36.0</u>                  | <u>37.3</u>                  | <u>36.0</u>                         | <u>36.0</u>                   | <u>0.0%</u>                          |
| Cash Funds                                | 8,290,151                    | 8,305,191                    | 7,388,679                           | 7,461,543                     | 1.0%                                 |

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|                                       | <b>FY 2013-14<br/>Actual</b> | <b>FY 2014-15<br/>Actual</b> | <b>FY 2015-16<br/>Appropriation</b> | <b>FY 2016-17<br/>Request</b> | <b>Request vs.<br/>Appropriation</b> |
|---------------------------------------|------------------------------|------------------------------|-------------------------------------|-------------------------------|--------------------------------------|
| <b>(3) ELECTIONS DIVISION</b>         |                              |                              |                                     |                               |                                      |
| Personal Services                     | <u>2,056,543</u>             | <u>1,984,711</u>             | <u>2,187,020</u>                    | <u>2,224,719</u>              |                                      |
| FTE                                   | 27.1                         | 27.1                         | 34.2                                | 34.2                          |                                      |
| Cash Funds                            | 2,056,543                    | 1,984,711                    | 2,187,020                           | 2,224,719                     |                                      |
| Operating Expenses                    | <u>218,561</u>               | <u>196,915</u>               | <u>267,838</u>                      | <u>267,838</u>                |                                      |
| Cash Funds                            | 218,561                      | 196,915                      | 267,838                             | 267,838                       |                                      |
| Help America Vote Act Program         | <u>754,349</u>               | <u>431,876</u>               | <u>10,000</u>                       | <u>10,000</u>                 |                                      |
| Cash Funds                            | 754,349                      | 431,876                      | 10,000                              | 10,000                        |                                      |
| Local Election Reimbursement          | <u>2,455,163</u>             | <u>2,409,260</u>             | <u>2,500,000</u>                    | <u>2,500,000</u>              |                                      |
| Cash Funds                            | 2,455,163                    | 2,409,260                    | 2,500,000                           | 2,500,000                     |                                      |
| Initiative and Referendum             | <u>149,114</u>               | <u>82,396</u>                | <u>150,000</u>                      | <u>250,000</u>                |                                      |
| Cash Funds                            | 149,114                      | 82,396                       | 150,000                             | 250,000                       |                                      |
| <b>TOTAL - (3) Elections Division</b> | 5,633,730                    | 5,105,158                    | 5,114,858                           | 5,252,557                     | 2.7%                                 |
| FTE                                   | 27.1                         | 27.1                         | 34.2                                | 34.2                          | 0.0%                                 |
| Cash Funds                            | 5,633,730                    | 5,105,158                    | 5,114,858                           | 5,252,557                     | 2.7%                                 |

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|  | FY 2013-14<br>Actual | FY 2014-15<br>Actual | FY 2015-16<br>Appropriation | FY 2016-17<br>Request | Request vs.<br>Appropriation |
|--|----------------------|----------------------|-----------------------------|-----------------------|------------------------------|
| <b>(4) BUSINESS AND LICENSING DIVISION</b>         |                      |                      |                             |                       |                              |
| Personal Services                                  | <u>2,338,869</u>     | <u>2,431,354</u>     | <u>2,523,122</u>            | <u>2,572,700</u>      |                              |
| FTE  | 38.5                 | 40.1                 | 48.1                        | 48.1                  |                              |
| Cash Funds   | 2,338,869            | 2,431,354            | 2,523,122                   | 2,572,700             |                              |
| Operating Expenses                                 | <u>88,936</u>        | <u>71,743</u>        | <u>163,000</u>              | <u>163,000</u>        |                              |
| Cash Funds   | 88,936               | 71,743               | 163,000                     | 163,000               |                              |
| Business Intelligence Center Personal Services     | <u>0</u>             | <u>0</u>             | <u>625,000</u>              | <u>627,093</u>        |                              |
| Cash Funds   | 0                    | 0                    | 625,000                     | 627,093               |                              |
| Business Intelligence Center Operating Expenses    | <u>0</u>             | <u>0</u>             | <u>150,000</u>              | <u>150,000</u>        |                              |
| Cash Funds   | 0                    | 0                    | 150,000                     | 150,000               |                              |
| <b>TOTAL - (4) Business and Licensing Division</b> | 2,427,805            | 2,503,097            | 3,461,122                   | 3,512,793             | 1.5%                         |
| FTE  | <u>38.5</u>          | <u>40.1</u>          | <u>48.1</u>                 | <u>48.1</u>           | <u>0.0%</u>                  |
| Cash Funds   | 2,427,805            | 2,503,097            | 3,461,122                   | 3,512,793             | 1.5%                         |
| <b>TOTAL - Department of State</b>                 | 20,357,823           | 20,738,162           | 21,580,286                  | 21,965,418            | 1.8%                         |
| FTE  | <u>119.4</u>         | <u>123.9</u>         | <u>137.3</u>                | <u>137.3</u>          | <u>0.0%</u>                  |
| General Fund                                       | 0                    | 0                    | 0                           | 0                     | 0.0%                         |
| Cash Funds   | 20,357,823           | 20,738,162           | 21,580,286                  | 21,965,418            | 1.8%                         |
| Reappropriated Funds                               | 0                    | 0                    | 0                           | 0                     | 0.0%                         |
| Federal Funds                                      | 0                    | 0                    | 0                           | 0                     | 0.0%                         |

## **Appendix B: Recent Legislation Affecting Department**

### **2014 Session Bills**

**S.B. 14-153 (Legislative Members Compensation Boards & Commissions):** Establishes uniform payments of per diem and the reimbursement of expenses to current members of the general assembly who are appointed to serve on state entities created or authorized by statute on which members of the general assembly are statutorily required to be appointed to serve. Reduces the appropriation to the Elections Division for the Colorado Voter Access and Modernized Elections Commission by \$2,816 cash funds for FY 2014-15.

**S.B. 14-161 (Update Uniform Election Code of 1992):** The "Voter Access and Modernized Elections Act", enacted in 2013, made various changes to the "Uniform Election Code of 1992". To facilitate implementation of that act, and the conduct of elections generally, the bill makes various corrections, clarifications, and alterations to the code. Appropriates \$150,154 cash funds to the Department of State for FY 2014-15 for information technology costs and voter registration materials.

**S.B. 14-217 (Increased Transparency Lobbyist Disclosure):** Makes modifications to existing statutory provisions governing lobbying. While the bill appropriates \$12,360 cash funds for information technology modifications for FY 2014-15, the effective date of the bill is July 1, 2015, effectively nullifying the appropriation for FY 2014-15.

**H.B. 14-1336 (Long Bill):** General appropriations act for FY 2014-15.

**H.B. 14-1341 (Department of State Cash Fund Repayment Transfer):** The bill transfers \$2,175,000 from the General Fund to the Department of State Cash Fund on June 30, 2014 (FY 2013-14), for the repayment of moneys transferred from the cash fund to the General Fund during FY 2008-09, to forestall a projected cash fund deficit based on the projected operating deficit between appropriations and revenue for FY 2013-14 and FY 2014-15.

**H.B. 14-1369 (Durable Medical Equipment Supplier License):** Requires a durable medical equipment supplier to have a license with the Secretary of State. The licensee must be physically located within the state or within 50 miles of the state, have sufficient inventory and staff to do business, and be accredited by an organization recognized and accepted by the Centers for Medicare and Medicaid Services. Appropriates \$95,775 cash funds and 0.1 FTE for information technology costs and program management to the Department of State for FY 2014-15.

### **2015 Session Bills**

**S.B. 15-162 (Supplemental Bill):** Supplemental appropriations for FY 2014-15.

**S.B. 15-234 (Long Bill):** General appropriations act for FY 2015-16.

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**S.B. 15-288 (Compensation Paid to Elected Officials):** Effective January 2019, replaces the existing fixed dollar salaries listed in statute for certain state officials and state legislators with a new method for determining salaries that aligns them to certain judicial officers' salaries. The Secretary of State's salary will be equal to 58.0 percent of the salary paid to most county court judges.

## **Appendix C: Update on Long Bill Footnotes & Requests for Information**

### **Long Bill Footnotes**

The 2015 Long Bill did not include any footnotes for the Department of State.

### **Requests for Information**

The 2015 Long Bill did not include any requests for information for the Department of State.

## **Appendix D: SMART Act Annual Performance Report**

Pursuant to Section 2-7-205 (1) (b), C.R.S., the Department of State is required to publish an Annual Performance Report by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation. For consideration by the Joint Budget Committee in prioritizing the Department's budget request, the FY 2014-15 report dated November 1, 2015 can be found at the following link:

<http://www.sos.state.co.us/pubs/newsRoom/SMART-Act/FY14-15/performanceReport.pdf>

Pursuant to Section 2-7-204 (3) (a) (I), C.R.S., the Department of State is required to develop a performance plan and submit that plan to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year. For consideration by the Joint Budget Committee in prioritizing the Department's budget request, the FY 2015-16 plan dated August 19, 2015 can be found at the following link:

<http://www.sos.state.co.us/pubs/newsRoom/SMART-Act/FY15-16/performancePlan.pdf>