

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



SUPPLEMENTAL REQUESTS FOR FY 2008-09

DEPARTMENT OF STATE

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

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Prioritized Supplementals

**Supplemental Request, Department Priority #1
Initiative and Referendum**

	Request	Recommendation
Total	\$0	\$0
Cash Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made ; or an unforeseen contingency]	YES
JBC staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made</i> . It was impossible to predict the large number of initiative petitions that the Department received prior to the 2008 election.	

Department Request: The Department's request includes two components that impact the FY 2008-09 appropriation. The first component is to *increase* the appropriation to the Initiative and Referendum line item by \$145,000 cash funds, and the second component is to *decrease* the appropriation to the Legal Services line item by \$145,000 cash funds.¹

Staff Recommendation: Staff recommends that the Committee approve the request to increase the appropriation for the Initiative and Referendum line item by \$145,000 cash funds, and to reduce the appropriation for the Legal Services line item by \$145,000 cash funds.

Background: *Initiative and Referendum:* The Initiative and Referendum line item's expenditures are driven by the number of initiatives that are submitted for signature verification and placement on the ballot. Costs are also influenced by whether the signatures are verified using random sampling or whether they require a line-by-line examination. Prior to the 2008 election, the Secretary received the greatest number of petitions in over 100 years.

Legal Services: During the Department's FY 2008-09 figure setting, JBC staff recommended to increase the appropriation for the Legal Services line item. Actual expenditures have been less than anticipated, and the Department projects a \$247,527 reversion for FY 2008-09. The Department requests that this line item's appropriation be reduced by \$145,000 cash funds, so that **the request's net impact is \$0.**

¹ In accordance with Section 24-21-104 (3) (b), C.R.S., the fund source is the Department of State Cash Fund.

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Staff Analysis: During odd-year elections, initiatives are limited to TABOR-related matters, and the Department typically receives no more than one initiative petition (see Section 1-41-102, C.R.S.). During even-year elections (general elections), there are no restrictions on the type of initiative that may be submitted.

- ❑ Prior to the 2008 election, the Department received 11 initiative petitions for signature verification and placement on the ballot, which is greatest number in over 100 years.
- ❑ Most petitions are submitted with approximately 80,000 - 100,000 signatures, and pursuant to Section 1-40-116 (2), C.R.S., the Secretary of State must verify the signatures within 30 days. Failure to meet this deadline results in the automatic certification of the question directly to the ballot, regardless of whether the petition contained an adequate number of signatures. Therefore, the Department hires temporary staff to perform this work in a timely manner.
- ❑ The Secretary is statutorily permitted to evaluate a random sample of 5.0 percent of the signatures [see Section 1-40-116 (4), C.R.S.]. Depending upon the results, the initiative may require a line-by-line verification, which increases the expense to approximately \$50,000. This past year, at least one petition required a line-by-line verification.
- ❑ **The Initiative and Referendum line item's expenditures are driven by external factors that the Department can not control.** It was impossible to predict the enormous number of initiatives that were submitted prior to the 2008 election.

Expenditures for Legal Services during FY 2008-09 have been incurred at a much lower rate than anticipated, resulting in a projected reversion of \$247,527. The Department proposes to offset the increased appropriation for the Initiative and Referendum line item by decreasing the appropriation for the Legal Services line item by \$145,000 cash funds. **Staff recommends that the Committee approve this request.**

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**Non-Prioritized, JBC Staff-initiated Supplemental #1
 Voting Equipment Certification**

	Request	Recommendation
Total	\$0	(\$127,405)
FTE	<u>0.0</u>	<u>(4.0)</u>
Cash Funds	0	(127,405)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made ; or an unforeseen contingency]	YES
JBC Staff and the Department agree that this request is the result of <i>data that was not available when the original appropriation was made</i> . Since the time of the FY 2008-09 figure setting, the Department has learned that it does not require the full appropriation for the voting equipment certification program.	

Background: Pursuant to Section 1-5-614, C.R.S., "the Secretary of State shall certify electronic and electromechanical voting systems and approve the purchase and use of such systems by political subdivisions and establish standards for certification." Prior to FY 2008-09, the voting equipment certification program (VECP) was supported by the Federal Elections Assistance Fund, which is comprised of federal dollars that were allocated to the states under the Help America Vote Act (HAVA) (see Section 1-1.5-106, C.R.S.). In 2007, new HAVA guidelines did not indicate that HAVA funds may be used for this purpose. The Department's FY 2008-09 budget submission requested that the Legislature appropriate General Fund for the VECP, as well as 10.0 FTE to replace temporary and contract employees.

At the time of the Department's FY 2008-09 figure setting, there was uncertainty about how the State would conduct the 2008 election, as well as the future of the VECP in general. Staff's analysis placed importance on providing the Department with sufficient resources to conduct a successful 2008 election, and staff recommended almost the full request, funded by the Department of State Cash Fund.

Staff Recommendation: Staff consulted with the Department and both agree that staff's recommendation overappropriated the VECP in FY 2008-09. Staff recommends reducing the FY 2008-09 appropriation by a total of \$127,405 cash funds and 4.0 FTE. This recommendation would reduce the appropriation for the Administration division's Personal Services line item by \$123,605 cash funds and 4.0 FTE, and the Operating Expenses line item by \$3,800 cash funds.

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Staff Analysis:

- At the time of FY 2008-09 figure setting, many of the State's voting systems had been decertified. There was concern regarding how the Department would conduct the 2008 election.
- Given the uncertainty, staff placed importance on providing the Department with adequate resources to conduct a successful election, and recommended that the Committee approve \$896,661 cash funds and 9.0 FTE for the VECP.
- The elections environment has stabilized, and the Department can more accurately predict the resources necessary for the VECP program. **It is evident that it does not require its full appropriation.**
- Both staff and the Department agree that the VECP's appropriation should be reduced by 4.0 FTE and \$127,405 cash funds.**
- In accordance with Section 1-1-401, C.R.S., the Election Reform Commission was established to analyze and make recommendations for certain aspects of the State's election system. Depending upon the Commission's final recommendations, **staff may recommend that a portion of these funds be reinstated for FY 2009-10 to fund a part-time contractor.**

**Non-Prioritized, JBC Staff-initiated Supplemental #2
Address Confidentiality Program**

	Request	Recommendation
Total Cash Funds	\$0	\$2,878

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made ; or an unforeseen contingency]	YES
JBC Staff and the Department agree that this request is the result of <i>new data</i> that was not available at the time of the initial appropriation.	

Background: Pursuant to Section 24-21-204, C.R.S., the Address Confidentiality Program (ACP) keeps confidential the address of a relocated victim of domestic violence, sexual offense, or similar crime by providing participants with a substitute mail address. Participants may use the substitute address for public records, and the program also receives mail at this location and then forwards it to the participant. The legislature intended for the program to be funded by a new \$28 surcharge, levied on offenders convicted of stalking or domestic violence (see Section 24-21-214, C.R.S.).

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Staff Recommendation: Staff recommends increasing the ACP's FY 2008-09 appropriation by \$2,878 cash funds, and the fund source would be the Address Confidentiality Program Surcharge Fund [see Section 24-21-214 (4) (a), C.R.S.].

Staff Analysis: Last year the Committee expressed an interest in ensuring that the ACP operate as efficiently as possible and indicated that it expects the program to remain fully supported by the intended revenue source. At the time of the Department's FY 2008-09 figure setting, the ACP's revenue source had not yet stabilized, but staff believed that the surcharge could support an appropriation of \$75,337 cash funds.

- Staff discussed the ACP during the Department's FY 2009-10 budget briefing. The program's monthly expenditure reports indicate that it is operating more efficiently, and it appears that the revenue has stabilized.
 - According to the Department, ACP staff must travel at least two days per month to conduct training sessions or outreach across the state. These expenses were not included in the initial appropriation. The program reports that it has developed a web-based training for application assistants. JBC believes that by directing people to the website, the program should be able to keep travel costs within reasonable limits in FY 2009-10. However, it still requires a small increase for travel in FY 2008-09.
 - Postage costs have also been higher than anticipated. The initial appropriation included expenditures for participants' mail, but it did not include funds for the program to mail various types of packets to new participants and application assistants. The program requires a small amount of additional funds for this purpose.
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**Non-Prioritized, JBC Staff-initiated Supplemental #3
 Information Technology FTE**

	Request	Recommendation
Total	\$0	(\$134,012)
FTE	<u>0.0</u>	<u>(2.0)</u>
Cash Funds	0	(134,012)

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made ; or an unforeseen contingency]	YES
JBC Staff and the Department agree that this request is the result of <i>new data</i> that was not available at the time of the initial appropriation.	

Staff Recommendation: Staff recommends reducing the appropriation for the Information Technology Services division by a total of \$134,012 cash funds and 2.0 FTE.

Staff Analysis: The Department worked with staff to identify opportunities for long-term efficiencies, and it identified two vacant FTE positions that it does not intend to fill. The Department and staff agree that these positions, and the corresponding personal services and operating dollars, can be eliminated from the appropriation. The first two bullets below describe why the Department no longer requires these FTE, and the last two bullets explain how staff calculated the recommendations for each line item.

- Senate Bill 07-254 transferred the Department's responsibilities for the Uniform Electronic Transactions Act to the Governor's Office of IT. **The Department reports that it no longer requires the 1.0 FTE** position that accompanied this program.
- The FY 2008-09 appropriation for the Statewide Disaster Recovery Center (E-Fort) includes 3.0 FTE. However, the Department has never filled one of these positions, and it consistently reverts this FTE and the corresponding dollars. **The Department agrees with staff that it does not require this 1.0 FTE.**
- Personal Services:* Staff calculated the Personal Services line item reductions by identifying the position's base salary, then incorporating an additional 10.15 percent for PERA contributions and 1.45 percent for Medicare. Pursuant to common policy, Departments factor PERA and Medicare contributions as part of the initial personal services appropriation. **Staff recommends reducing the appropriation for the (3)(A) Information Technology, Personal**

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Services line item by \$66,880 cash funds and 1.0 FTE, and the (3)(B) Statewide Disaster Recovery Center, Personal Services line item by \$65,232 cash funds and 1.0 FTE.

- ❑ *Operating Expenses:* Departments receive an annual appropriation of \$950 per 1.0 FTE for operating expenses (supplies, phones, etc.), and these dollars are incorporated as part of the Department's base appropriation. When an FTE is eliminated, the Department no longer requires the corresponding operating dollars. Staff recommends **reducing the appropriations to the (3)(A) Information Technology, Operating Expenses line item and the (3)(B) Statewide Disaster Recovery Center, Operating Expenses line item by \$950 cash funds each.**

Non-Prioritized Supplementals

Statewide Common Policy Supplemental Requests

OSPB has yet to submit any common policy supplemental requests for the Department of State.

Staff Recommendation: The staff recommendation for these requests is pending Committee approval of common policy supplementals. **Staff requests permission to include the corresponding appropriations in the Department's supplemental bill once the Committee has approved common policies for the FY 2008-09 supplementals.** If staff believes there is reason to deviate from the common policy, staff will present the relevant analysis to the Committee.

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Cash Fund Transfers

As a non-executive agency, the Department of State is not required to submit its budget through the Office of State Planning and Budgeting (OSPB). In place of a formal submission, the Department worked closely with staff to identify cash fund amounts that are available to transfer to the General Fund. A total of \$2,225,000 is available to transfer from the Department's two cash funds to the General Fund in FY 2008-09.

**Transfer from the Department of State Cash Fund
Statutory Change Required**

FY 2008-09	Proposed	Recommendation
Transfer from the Department of State Cash Fund to General Fund	\$1,650,000	\$1,650,000

Background: The Department of State is completely supported by cash funds. The primary fund is the Department of State Cash Fund, which generates revenue from business filing fees.

Pursuant to Section 24-21-104 (3) (d) (I), C.R.S., the General Assembly may enact legislation to deduct unappropriated funds from the Department of State Cash Fund and credit them to the General Fund.

In 2002 and 2003, the General Assembly transferred a total of \$3.9 million from the Department's cash fund to the General Fund.²

Staff Recommendation: Staff worked closely with the Department to identify the amount of cash funds that can be transferred to the General Fund without affecting its current appropriation. The Department proposes, and staff agrees, that **\$1.65 million cash funds is available to transfer from the Department of State Cash Fund to the General Fund for FY 2008-09.**

Staff Analysis:

The Secretary of State is required to charge a fee for all business filings and other official work conducted by the Department [see Section 24-21-104, C.R.S.].

The Department is to adjust these fees so that they generate revenue that approximates its direct and indirect costs [see Section 24-21-104 (1) (a), C.R.S.]. However, the Fund occasionally

² Section 24-21-104 (3) (d) (I), C.R.S., and Sections 24-21-104 (3) (d) (X) to 24-21-104 (3) (d) (XII), C.R.S.

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accumulates an uncommitted reserve that exceeds the 16.5 percent limit permitted by statute [see Section 24-75-402 (3) (a) (I), C.R.S.].

- Over 90.0 percent of the Department's filings occur online. Electronic filings are significantly less expensive to process than paper forms, and this efficiency is one reason why the Department's filing fees are amongst the least expensive in the country.
- The low fee rates, in addition to the fact that the transfer amount is a part of the uncommitted excess reserve, lead staff to believe that **a transfer would not negatively impact the services that the Department provides to its constituents.**
- It is highly unlikely that this fund transfer will result in a negative fund balance. The transfer amount is a part of the Department's uncommitted excess reserve. Staff analyzed the Department's business filings over the past five years, and they are remarkably consistent. There is no reason to believe that the Department will need to access this reserve.
- This cash fund transfer requires legislation.**

**Transfer from the Notary Administration Cash Fund
 Statutory Change Required**

FY 2008-09	Proposed	Recommendation
Transfer from the Notary Administration Cash Fund to the General Fund	\$575,000	\$575,000

Background: The Department of State is required to charge a fee for each notary public's commission, and this fee is deposited into the Notary Administration Cash Fund (see Section 24-21-104, C.R.S., and Section 12-55-102.5, C.R.S.). This cash fund consistently carries a substantial uncommitted excess cash fund reserve, and **the Department proposes that \$575,000 can be transferred to the General Fund for FY 2008-09.**

Staff Recommendation: Staff recommends transferring \$575,000 cash funds from the Notary Administration Cash Fund to the General Fund for FY 2008-09.

Staff Analysis:

- The Notary Administration Cash Fund receives fees collected as part of the Department's administration of the Notary Public program. Pursuant to Section 12-55-102.5 (2), C.R.S., the Secretary is to use these funds for expenditures related to the Notaries Public program.

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- The Department is statutorily limited in how it may use these funds, yet it is still required to collect the fees. As a result, this cash fund has a relatively significant excess cash fund reserve.
 - This transfer would also assist to bring the Notaries Administration Cash Fund into compliance with the statutory limits on excess cash fund reserves [see Section 24-75-402 (3) (a) (I), C.R.S.].
 - Given that the transfer amount is a part of the Fund's uncommitted excess cash fund reserve, and the limited purposes for which the Department may use the funds, it is highly unlikely that this transfer would negatively impact the notaries public program.
 - This cash fund transfer requires legislation.**
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	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF STATE					
Secretary of State - Bernie Buescher					
Supplemental #1 - Initiative and Referendum					
<i>(1) Administration</i>					
Legal Services - Cash Funds	<u>341,431</u>	<u>534,536</u>	<u>(145,000)</u>	<u>(145,000)</u>	<u>389,536</u>
<i>Hours Equivalent</i>	<u>4,740</u>	<u>7,118</u>	<u>(1,931)</u>	<u>(1,931)</u>	<u>5,187</u>
<i>(2) Special Purpose</i>					
Initiative and Referendum - Cash Funds	50,000	200,000	145,000	145,000	345,000
Total for Supplemental #1					
Cash Funds	<u>391,431</u>	<u>734,536</u>	<u>0</u>	<u>0</u>	<u>734,536</u>
<i>Hours Equivalent</i>	<u>4,740</u>	<u>7,118</u>	<u>(1,931)</u>	<u>(1,931)</u>	<u>5,187</u>
Staff-Initiated Supplemental #1 - Voting Equipment Certification					
<i>(1) Administration</i>					
Personal Services - Cash Funds	<u>4,688,050</u>	<u>5,257,626</u>	<u>0</u>	<u>(123,605)</u>	<u>5,134,021</u>
FTE	80.0	89.5	0.0	(4.0)	85.5
Operating - Cash Funds	625,556	825,243	0	(3,800)	821,443
Total for Staff-Initiated Supplemental #1					
Cash Funds	<u>5,313,606</u>	<u>6,082,869</u>	<u>0</u>	<u>(127,405)</u>	<u>5,955,464</u>
FTE	80.0	89.5	0.0	(4.0)	85.5

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Staff-Initated Supplemental #2 - Address Confidentiality Program					
<i>(A) Administration</i>					
Address Confidentiality Program	<u>65,000</u>	<u>75,337</u>	<u>0</u>	<u>2,878</u>	<u>78,215</u>
Address Confidentiality Program Cash Fund	65,000	75,337	0	2,878	78,215
Staff-Initated Supplemental #3 - Information Technology FTE					
<i>(3) Information Technology Services</i>					
<i>(A) Information Technology</i>					
Personal Services- Cash Funds	<u>2,877,270</u>	<u>5,205,393</u>	<u>0</u>	<u>(66,880)</u>	<u>5,138,513</u>
FTE	24.2	32.1	0.0	(1.0)	31.1
Operating Expenses- Cash Funds	457,076	767,430		(950)	766,480
<i>(B) Statewide Disaster Recovery Center</i>					
Personal Services- Cash Funds	<u>173,939</u>	<u>180,376</u>	<u>0</u>	<u>(65,232)</u>	<u>115,144</u>
FTE	2.0	3.0	0.0	(1.0)	2.0
Operating Expenses- Cash Funds	73,882	247,000	0	(950)	246,050
Total for Staff-Initiated Supplemental #3					
Cash Funds	<u>3,582,167</u>	<u>6,400,199</u>	<u>0</u>	<u>(134,012)</u>	<u>6,266,187</u>
FTE	26.2	35.1	0.0	(2.0)	33.1

	FY 2007-08	FY 2008-09	Fiscal Year 2008-09 Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
Department Total					
DEPARTMENT OF STATE					
TOTALS for ALL Departmental line items	24,024,025	28,352,933	0	(258,539)	28,094,394
FTE	<u>116.7</u>	<u>133.1</u>	<u>0.0</u>	<u>(6.0)</u>	<u>127.1</u>
Cash Funds	14,618,510	28,352,933	0	(258,539)	28,094,394
FTE	107.2	133.1	0.0	(6.0)	129.1
Cash Funds Exempt / Reappropriated Funds	9,405,515	0	0	0	0
FTE	9.5	0.0	0.0	0.0	0.0