

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**FY 2014-15 STAFF BUDGET BRIEFING  
DEPARTMENT OF STATE**

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

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December 3, 2013**

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## **DEPARTMENT OF STATE**

### **Department Overview**

The Department of State broadly oversees two areas: elections and business registration. Additionally, the Department publishes the Code of Colorado Regulations (CCR), licenses entities and enforces laws related to charitable gaming, regulates notaries public, and registers lobbyists. The Department consists of four divisions as follow:

#### **Administration**

- Provides personnel, finance, and general administrative support for all divisions.

#### **Information Technology Services**

- Provides technical and project management services, systems development, and support to Department programs.

#### **Elections Division**

- Administers statewide statutory and constitutional provisions that relate to elections, including the preparation and conduct of elections and the initiative and referendum process.
- Certifies voting equipment.
- Implements the provisions of the federal Help America Vote Act (HAVA), including the improvement of the administration of federal elections.
- Manages 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 business filings such as annual reports, articles of incorporation, liens, and other documents filed by businesses.
- Registers business names, trade names, and trademarks.
- Registers charitable organizations.
- Publishes the Code of Colorado Regulations (CCR).
- Licenses entities that engage in charitable gaming and enforces related laws.
- Regulates notaries public and administers related laws.
- Registers lobbyists and monitors the filing of required disclosure reports.

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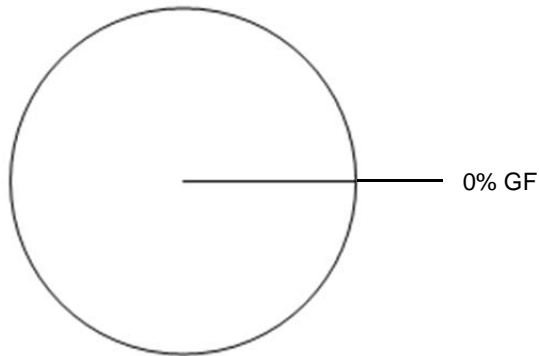
## Department Budget: Recent Appropriations

<b>Funding Source</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>	<b>FY 2014-15 *</b>
General Fund	0	0	0	0
Cash Funds	20,514,081	20,458,878	22,908,217	21,993,272
Federal Funds	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>Total Funds</b>	<b>\$20,514,081</b>	<b>\$20,458,878</b>	<b>\$22,908,217</b>	<b>\$21,993,272</b>
Full Time Equiv. Staff	127.9	133.0	139.0	137.2

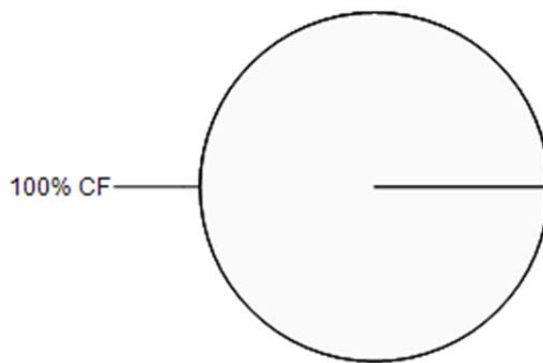
\*Requested appropriation.

## Department Budget: Graphic Overview

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



**Department Funding Sources**

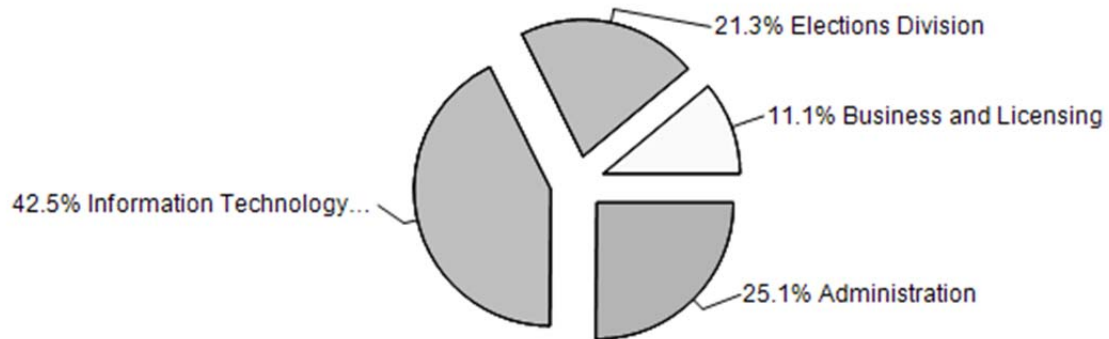


All charts are based on the FY 2013-14 appropriation

**Distribution of General Fund by Division**

The Department of State does not receive General Fund appropriations

**Distribution of Total Funds by Division**



All charts are based on the FY 2013-14 appropriation

## General Factors Driving the Budget

The major factors driving the budget for the Department of State are:

1. Elections-related expenses, which are driven by:
  - The growth in the state’s population of eligible voters;
  - Changes in election laws; and
  - Changes in elections-related practices by citizens of the State.
  
2. The volume of business filings driven by the number of organizations (businesses, non-profits, charitable, and other groups) registered in the State due to population and economic growth.
  
3. Information technology services projects to support elections and business filings.

The Administration division supports these functions. The FY 2013-14 Long Bill restructured the Department's budget, splitting the Administration Division appropriations into Administration, Elections, and Business and Licensing Divisions for increased budget transparency. The Department’s FY 2012-13 through FY 2014-15 FTE by division are shown in the table below.

<b>Department of State - Distribution of FTE</b>					
<b>FY 2012-13 through FY 2014-15</b>					
	Administration	Information Technology Services	Elections Division	Business and Licensing Division	Total
FY 2012-13 Actual	79.6	32.1	0.0	0.0	111.7
FY 2013-14 Appropriation	20.0	36.0	35.0	48.0	139.0
FY 2014-15 Request	19.0	36.0	34.2	48.0	137.2

The Department is entirely cash-funded. Although since 2003, additional cash funding from the Federal Elections Assistance Fund consisted of federal funds that the State received to help administer the Help America Vote Act. Those continuously appropriated funds have been expended and no additional federal funding is expected.

The primary cash fund is the Department of State (DOS) Cash Fund, which earns revenue almost exclusively from fees charged from the Business and Licensing Division's registration, filing, and licensing fees. Business entity filing fees contribute more than 96.0 percent of the Department's revenue. The remainder of the DOS Cash Fund revenues are from bingo-raffle, campaign finance, lobbyist, and notary administration filings.

### **Elections-related Expenditures**

Prior to the FY 2013-14 Long Bill, the Department’s elections-related expenditures were not expressly identified in the Long Bill. Program expenses such as personal services, operating expenses, and legal services were contained in line items in the Administration Division of the Department. Only three line items in the Long Bill, Help America Vote Act (HAVA), Initiative

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and Referendum, and Local Election Reimbursement, were expressly identified in the Special Purpose Division.

Elections-related expenditures are best considered in three distinct categories as they drive the budget in distinct and identifiable ways:

- Internal Expenditures
- External Expenditures
- HAVA

The following table outlines internal expenditures from FY 2004-05 through FY 2012-13.

<b>Department of State Elections Program Internal Expenditures</b>									
	<b>FY 04-05</b>	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>
Personal Services	\$760,275	\$804,717	\$921,945	\$1,069,434	\$1,359,082	\$1,409,092	\$1,828,723	\$1,725,146	\$2,277,610
Operating Expenses	94,314	100,275	140,546	171,564	266,903	164,008	160,379	235,173	378,427
Legal Services	0	0	3,839	273,769	228,103	354,388	350,570	472,876	281,845
Leased Space	104,215	136,078	61,168	91,233	142,321	108,286	132,554	113,005	169,608
<b>Total Internal Expenditures</b>	<b>\$958,804</b>	<b>\$1,041,070</b>	<b>\$1,127,498</b>	<b>\$1,606,000</b>	<b>\$1,996,409</b>	<b>\$2,035,774</b>	<b>\$2,472,225</b>	<b>\$2,546,201</b>	<b>\$3,107,490</b>
Percentage Change		8.6%	8.3%	42.4%	24.3%	2.0%	21.4%	3.0%	22.0%

Operating Expenses includes Discretionary Fund expenditures of \$828 in FY 08-09 and \$1,052 in FY 09-10.

Substantial annual variations in internal expenditures are predominantly the result of changes in legal services expenditures. Legal services expenditures were first fully recognized by program in FY 2007-08, and have averaged \$326,925 over six years. The FY 2011-12 and FY 2012-13 increases in operating expenses were related to participation in the Electronic Registration Information System (ERIC) project, and included appropriations of \$245,000 and \$170,000, respectively, and a supplemental that rolled forward the 2011-12 appropriation into FY 2012-13.

The following table outlines external expenditures from FY 2004-05 through FY 2012-13.

<b>Department of State Elections Program External Expenditures</b>									
	<b>FY 04-05</b>	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>
Initiative and Referendum	\$33,063	\$83,417	\$138,332	\$50,000	\$301,007	\$149,420	\$40,493	\$184,253	\$208,143
Local Election Reimbursement	867,393	847,146	1,681,178	914	2,042,250	0	1,666,033	1,541,360	2,226,707
<b>Total External Expenditures</b>	<b>\$900,456</b>	<b>\$930,563</b>	<b>\$1,819,510</b>	<b>\$50,914</b>	<b>\$2,343,257</b>	<b>\$149,420</b>	<b>\$1,706,526</b>	<b>\$1,725,613</b>	<b>\$2,434,849</b>
Percentage Change		3.3%	95.5%	(97.2%)	4,502.4%	(93.6%)	1042.1%	1.1%	41.1%

The Initiative and Referendum line item funds the verification of signatures on candidate and initiative petitions. During odd years, initiatives are limited to TABOR-related matters, but during even years there are no restrictions on the type of initiatives on the ballot.



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

The federal Help America Vote Act of 2002 (HAVA) required the state to replace outdated voting technology, to ensure accessibility for disabled voters, and to institute a statewide voter registration system. The following table outlines HAVA expenditures from FY 2004-05 through FY 2012-13.

<b>Department of State Elections Program Federal HAVA Expenditures</b>									
	<b>FY 04-05</b>	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>
Personal Services	\$3,017,731	\$1,339,095	\$2,568,175	\$4,675,330	\$5,438,777	\$905,690	\$367,559	\$723,860	\$50,155
Contractors	0	0	0	0	0	1,723,503	1,428,817	424,166	56,593
Operating Expenses	338,439	156,538	715,722	1,427,311	242,325	341,520	459,185	351,183	874,637
Grants	2,427,846	1,526,875	12,243,989	1,566,498	247,788	119,283	135,073	96,081	172,333
Capitalized Property Purchases	53,142	0	2,927,481	1,687,334	644,949	0	367,843	0	0
Transfers	0	736	162,304	49,042	63,716	5,000	5,000	5,000	5,000
<b>Total HAVA Expenditures</b>	<b>\$5,837,159</b>	<b>\$3,023,244</b>	<b>\$18,617,671</b>	<b>\$9,405,515</b>	<b>\$6,637,555</b>	<b>\$3,094,996</b>	<b>\$2,763,477</b>	<b>\$1,600,290</b>	<b>\$1,158,718</b>
Percentage Change		-48.2%	515.8%	-49.5%	-29.4%	-53.4%	-10.7%	-42.1%	-27.6%

The Federal Elections Assistance Fund was created in Section 1-1.5-106 (1) (a), C.R.S., to receive HAVA funds. Pursuant to Section 1-1.5-106 (2) (b), C.R.S., HAVA funds are continuously appropriated to the Department of State. To date, the Department of State has received \$44.8 million in federal funds and \$1.98 million has been appropriated from the Department of State Cash Fund as the State's matching contribution. The State does not anticipate additional federal funding and HAVA funds are expected to be exhausted in the next several years.

**Business and Licensing Expenditures**

Prior to the FY 2013-14 Long Bill, the Department's business and licensing-related expenditures were not expressly identified in the Long Bill. Program expenses were contained in line items in the Administration Division of the Department.

The Business and Licensing Division's primary responsibility is to receive reports that businesses and other entities are required to file with the State and provide public access to those records. Today, most records are filed and accessed electronically. The reports that are required to be filed include business entity filings, voter registration, campaign finance disclosure, administrative rules, lobbyist reports, and charitable organization reports. Business and Licensing is also responsible for the licensing and regulation of bingo/raffle organizations,

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registering lobbyists, fund raisers, and charitable organizations, and the commissioning of notaries public.

**Information Technology Services**

The Information Technology Services Division provides most of the technology support for the Department. The Department provides many search and filing services via the internet and it processes over 2,500 web-based transactions daily.

The division also provides project direction and support for the federally mandated computerized statewide voter registration 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. The remainder of this division is funded by the Department of State Cash Fund.

Until July 1, 2010, the Information Technology Services Division was also responsible for operation of the State's Disaster Recovery Center (E-Fort). Pursuant to S.B. 10-148, responsibility for E-Fort has been transferred to the Governor's Office of Information Technology (OIT). Over a three-year period, starting with FY 2011-12, funding has been transferred, in increments of approximately one-third per year, to the Computer Services Revolving Fund. Effective with the FY 2013-14 budget, the Department of State no longer has any funding responsibility for this function.

**Summary: FY 2013-14 Appropriation & FY 2014-15 Request**

<b>Department of State</b>				
	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>FTE</b>
<b>FY 2013-14 Appropriation</b>				
SB 13-230 (Long Bill)	\$21,372,884	\$0	\$21,372,884	135.0
Other Legislation	1,535,333	0	1,535,333	4.0
<b>TOTAL</b>	<b>\$22,908,217</b>	<b>\$0</b>	<b>\$22,908,217</b>	<b>139.0</b>
<b>FY 2014-15 Requested Appropriation</b>				
FY 2013-14 Appropriation	\$22,908,217	0	\$22,908,217	139.0
Centrally appropriated line items	364,733	0	364,733	0.0
Indirect cost assessment	21,971	0	21,971	0.0
Annualize prior year funding	(1,232,961)	0	(1,232,961)	(1.8)
Statewide IT common policy adjustments	(68,688)	0	(68,688)	0.0
<b>TOTAL</b>	<b>\$21,993,272</b>	<b>\$0</b>	<b>\$21,993,272</b>	<b>137.2</b>
<b>Increase/(Decrease)</b>	<b>(\$914,945)</b>	<b>\$0</b>	<b>(\$914,945)</b>	<b>(1.8)</b>
Percentage Change	(4.0%)	0.0%	(4.0%)	(1.3%)

**Description of Requested Changes**

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

**Indirect Cost Assessment Adjustments:** The request includes a \$21,971 increase in cash funds that reflects adjustments to indirect cost assessment lines as a result of the Statewide Indirect Cost Plan.

**Annualize prior year funding:** The request includes adjustments related to prior year legislation and budget actions.

**Statewide IT common policy adjustments:** The request includes adjustments to line items appropriated for: purchase of services from the computer center; Colorado state network; management and administration of the Governor's Office of Information Technology (OIT); and information technology security.

## **Issue: Fund Balance Concerns and Funding for Elections-related External Expenditures I: General Funding Local Election Reimbursement**

Statute permits the use of General Fund for reimbursements to county clerks for statewide ballot issues, although General Fund has never been appropriated for this purpose. Increasing elections-related expenses and a diminished Department of State Cash Fund balance suggest it may be time to fund local election reimbursements with General Fund.

### **SUMMARY:**

- Historically, the elections function in Colorado has been funded through business and organizational entity registration, filing, and penalty fees in the Department of State.
- Historically, the expenditure pattern for elections expenses has been relatively stable. In recent years, however, elections program expenses have increased due to statutory changes in elections processes as well as from changes in elections-related practices by citizens of the State.
- Section 24-21-104.5, C.R.S., permits the use of General Fund for reimbursements to county clerks for statewide ballot issues, only after exhausting all moneys in the Department of State Cash Fund.
- While historically the Department of State Cash Fund has carried excess reserve balances, the Department of State Cash Fund balance may be in deficit by the end of FY 2014-15.

### **RECOMMENDATION:**

Staff recommends that the Committee pursue legislation to repeal the provision that requires the exhausting of the Department of State Cash Fund before General Fund may be appropriated for reimbursements to county clerks for statewide ballot issues.

Staff recommends that the Committee, *at the time of figure setting for the Department of State*, fund the Elections Division, Local Election Reimbursement line item from General Fund.

### **DISCUSSION:**

#### **Funding Elections With Business Registration Fees**

While business and organizational entity registration, filing, and penalty fees fund the Department, the Department is also responsible for elections-related functions but receives no

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fee revenue related to administering its elections responsibilities. And so historically, the elections function in Colorado has been funded through business registration fees.

Generally, functions that are General Funded consist of:

- functions that are provided statewide;
- functions provided as fundamental services to the citizens of the State; and
- functions provided for in the constitution for the general welfare of citizens and governing processes of the State.

Generally, state services that are cash funded are functions that are considered additional services provided for a fee to a particular subset of consumers of those state services.

In some states, business registration fees are set in statute and credited to the General Fund. In Colorado, business registration fees are administratively set by the Department and credited to the Department of State Cash Fund. Arguably, the elections function provided by the Department has historically functioned within the spirit of or understanding in context of business registration fees as General Fund; although clearly that spirit, understanding, or context is not specified in law. Additionally, if one considers business registration fees as some additional category that is characteristically like General Fund, then similarly the increase of those fees might need to be considered within the context of requiring a Tabor-required, revenue-raising ballot issue.

Historically, the expenditure pattern for elections expenses has been relatively stable. In recent years, however, elections program expenses have increased due to statutory changes in elections processes as well as from changes in elections-related practices by citizens of the State.

While the argument for General Funding might be extended to cover all elections-related expenses, given the institutional history of funding elections through this cash-funded budget mechanism, this issue will be limited to proposing General Fund for the one elections-related external expense that statute expressly identifies as authorized for General Funding.

**History of Legislative Intent for the Use of General Fund**

The Department of State is funded from the Department of State Cash Fund created in Section 24-21-104 (3) (b), C.R.S. Revenues are generated from fees, pursuant to Section 24-21-104, C.R.S., that predominantly consist of business and organizational entity registration, filing, and penalty fees. Additionally, Section 24-21-104 (3) (b), C.R.S., states (emphasis added):

*The department of state shall adjust its fees so that the revenue generated from the fees approximates its direct and indirect costs, including the cost of maintenance and improvements necessary for the distribution of electronic records; except that the department may reduce its fees to generate revenue in an amount less than costs if necessary pursuant to section 24-75-402 (3). Such costs shall not include the costs paid by the amounts appropriated by the general assembly from the general fund to the department of state for elections pursuant to section 24-21-104.5.*

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Section 24-21-104.5, C.R.S., addresses the option of appropriating General Fund for reimbursements to county clerks for the conduct of elections related to statewide ballot issues due to TABOR and the increased use of the initiative process. This provision has been amended four times since it was added in 1996 in S.B. 96-181 (Concerning General Fund Appropriations to the Department of State for Elections) originally appearing as follows (emphasis added):

***24-21-104.5. General fund appropriation - elections. The general assembly is authorized to appropriate general funds to the department of state to cover the costs of the duties performed by local county clerk and recorders relating to the conduct of elections. Any such appropriation shall not be used in calculating the fees provided for in section 24-21-104 (3) (b). The intent of the general assembly is to authorize the appropriation of general fund moneys to the department of state to offset some of the costs of local county clerk and recorders associated with the additional election duties and requirements resulting from the passage of section 20 of article X of the state constitution, from the preparation and conduct of the presidential primary election pursuant to section 1-4-1202, C.R.S., and from the increased number of initiatives that are being filed.***

Current statute provides the following (emphasis added):

***24-21-104.5. General fund appropriation - cash fund appropriation - elections. The general assembly is authorized to appropriate moneys from the department of state cash fund to the department of state to cover the costs of the local county clerk and recorders relating to the conduct of general elections and November odd-year elections. If the amount of moneys in the department of state cash fund is insufficient to cover such costs, the general assembly may appropriate additional general fund moneys to cover such costs after exhausting all moneys in the department of state cash fund. The intent of the general assembly is to authorize the appropriation of department of state cash fund moneys and general fund moneys to the department of state to offset some of the costs of local county clerk and recorders associated with the additional election duties and requirements resulting from the passage of section 20 of article X of the state constitution and from the increased number of initiatives that are being filed.***

The original intent was to authorize General Fund appropriations for the purpose of reimbursements to county clerks for statewide ballot issues. In practice, General Fund appropriations were never made for this purpose. Senate Bill 99-001 (Western Presidential Primary Election) amended the legislative intent statement to authorize Department of State Cash Fund appropriations as well as General Fund for this purpose and added the language providing for General Fund only after exhausting moneys in the Department of State Cash Fund.

The 1999 amendment of legislative intent appears to have been made for the purpose of aligning the legislative intent language with actual practice. However, given that this is an intent statement, and funding from the Department of State Cash Fund was already occurring, it was legally unnecessary. The amendment did, however, reverse the intent of the original provision to

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restrict the use of General Fund. The original intent statement added in 1996, could similarly be argued was simply an intent statement. However, while also legally unnecessary, the provision granted express authority for General Fund appropriations which was different from how reimbursements had been funded to that point.

**Local Election Reimbursement Line Item**

The following table outlines the recent expenditures, appropriations and request amount for the local election reimbursement line item as well as the statutory, per-voter reimbursement amount.

<b>Department of State, Elections Division, Local Election Reimbursement</b>						
	<b>FY 04-05</b>	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	
	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	
Local Election Reimbursement	\$867,393	\$847,146	\$1,681,178	\$914	\$2,042,250	
Reimbursement Amount	\$0.35/\$0.40	\$0.35/\$0.40	\$0.70/\$0.80	\$0.70/\$0.80	\$0.70/\$0.80	
	<b>FY 09-10</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>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Approp.</b>	<b>Request</b>
Local Election Reimbursement	\$0	\$1,666,033	\$1,541,360	\$2,226,707	\$2,004,036	\$2,004,036
Reimbursement Amount	\$0.70/\$0.80	\$0.70/\$0.80	\$0.70/\$0.80	\$0.80/\$0.90	\$0.80/\$0.90	\$0.80/\$0.90

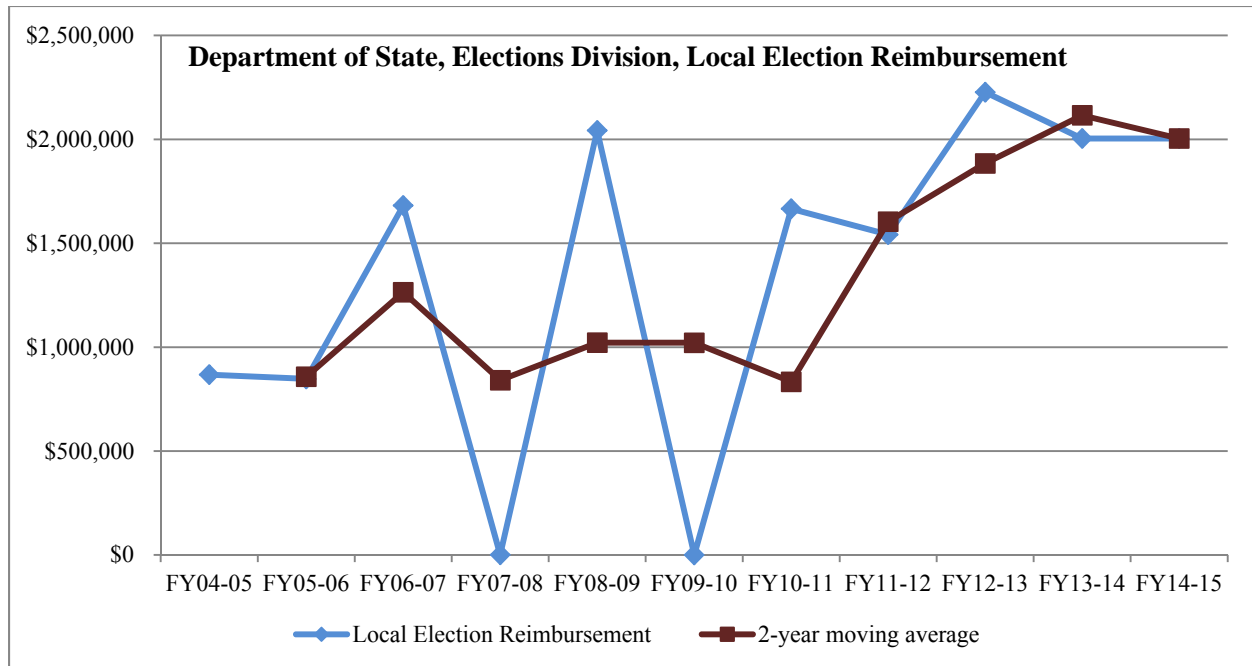
Reimbursement amount is per registered voter. Lower reimbursement amount to counties with more than 10,000 voters; higher reimbursement amount to counties with 10,000 or fewer voters.

The current per-voter reimbursement provision, Section 1-5-505.5, C.R.S., was added in H.B. 00-1100, and established a reimbursement rate of \$0.35 and \$0.45 per registered voter for counties with more than 10,000 registered voters and for counties with 10,000 or fewer registered voters, respectively. Senate Bill 06-170 increased the reimbursement rate to \$0.70 and \$0.80, and H.B. 12-1143 increased the reimbursement rate to \$0.80 and \$0.90. Additionally, although H.B. 13-1303 did not increase the reimbursement rate, it increased the number of eligible voters by eliminating the *inactive – failed to vote* (I-FTV) status and shifted those voters to *active* status. As of October 1, there are 3,049,655 active voters and 507,347 inactive records in SCORE for voters with undeliverable addresses. At the lower reimbursement rate of \$0.80 per voter, the current total of active voters generates a reimbursement expense of \$2.4 million.

The following graph illustrates the Local Election Reimbursement expenditures, appropriation, and request amounts from FY 2004-05 through the FY 2014-15 request, as well as illustrates the two-year moving average for those amounts to adjust the trend line for an approximated two-year election cycle. Additionally, the FY 2013-14 and FY 2014-15 data points show the appropriation and budget request amounts for those fiscal years respectively and not the anticipated higher estimate of at least \$2.4 million based on staff's projections.



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**Department of State Cash Fund Balance**

The following table outlines the fund balance history for the Department of State Cash Fund from FY 2007-08 through FY 2012-13 and projected fund balance activity for FY 2013-14 and FY 2014-15.

<b>Department of State Cash Fund - Fund Balance History and Projected</b>								
	<b>FY07-08</b>	<b>FY08-09</b>	<b>FY09-10</b>	<b>FY10-11</b>	<b>FY11-12</b>	<b>FY12-13</b>	<b>FY13-14</b>	<b>FY14-15</b>
	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Approp.</b>	<b>Request</b>
Beginning Balance	\$3,273,840	\$4,640,120	\$2,379,945	\$4,852,298	\$6,230,101	\$7,009,733	\$1,895,211	\$592,102
Revenue	14,903,899	17,009,919	17,189,223	18,111,700	17,298,268	14,838,261	18,440,159	18,983,962
Expenses	(13,673,025)	(17,098,095)	(14,716,869)	(16,733,898)	(16,518,636)	(19,952,783)	(20,231,718)	(19,564,051)
Transfers	0	(2,175,000)	0	0	0	0	488,451	0
Other Variance*	<u>135,406</u>	<u>3,001</u>	<u>(1)</u>	<u>1</u>	<u>0</u>	<u>(1)</u>	<u>(1)</u>	<u>0</u>
Net Cash Flow	<u>1,366,280</u>	<u>(2,260,175)</u>	<u>2,472,353</u>	<u>1,377,803</u>	<u>779,632</u>	<u>(5,114,523)</u>	<u>(1,303,109)</u>	<u>(580,089)</u>
<b>End Balance</b>	<b>\$4,640,120</b>	<b>\$2,379,945</b>	<b>\$4,852,298</b>	<b>\$6,230,101</b>	<b>\$7,009,733</b>	<b>\$1,895,210</b>	<b>\$592,102</b>	<b>\$12,013</b>
Allowable Excess Reserve (16.5%)	2,256,049	2,821,186	2,428,283	2,761,093	2,725,575	3,292,209	3,338,233	3,228,068
Over/(Under) Allowable Reserve	\$2,384,071	(\$441,241)	\$2,424,015	\$3,469,008	\$4,284,158	(\$1,396,999)	(\$2,746,131)	(\$3,216,055)

\*Other variance are rounding errors and amounts unexplained or unaccounted for in historical budget request schedule 9's.

While the cash fund has not been entirely exhausted through FY 2012-13, its recent history of excess reserve balances have not only been eliminated, it appears that the fund balance is projected to be \$592,000 at the end of the current fiscal year (that included a transfer of \$488,000



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from the repealed Notary Administration Cash Fund pursuant to H.B. 12-1274), and is projected to be \$12,000 at the end of FY 2014-15.

Additionally, the Department's appropriation in FY 2013-14 totals \$22,908,217, not including the interim supplemental approved in September for an additional \$448,644 cash funds. This will bring the FY 2013-14 total appropriation to \$23.4 million, or \$3.1 million more than shown in the Department's schedule 9 estimated expenses line. Similarly, the FY 2014-15 budget request amount totals \$21,993,272, or \$2.4 million more than shown in the Department's schedule 9 projected expenses line.

**Penalty Fee Increase**

As a result of the depleted fund balance, the Department did increase penalty fees on November 1, 2014, that is projected to increase revenue by \$175,000 in FY 2014-15. The Department reports that the Secretary of State does not plan to increase any other fees.

**Conclusion**

Statute does not expressly provide for General Funding any other elections-related or other function in the Department of State. While not having met the letter of the law regarding the exhaustion of the Department of State Cash Fund through FY 2012-13, it appears that the fund balance may be exhausted in FY 2014-15. The possibility of an additional \$3.1 million in FY 2013-14 and an additional \$2.4 million in FY 2014-15, suggests that the Department may be in deficit by as much as \$5.5 million by the end of FY 2014-15.

The Department of State Cash Fund balance reached a point of depletion that led to the increase of penalty fees. Based on the potential projected fund balance deficit, based on the history of the legislative intent for providing General Fund for reimbursements to county clerks, and given the reasonable basis for funding a statewide function through General Fund rather than through fees on unrelated services, staff recommends that the Committee consider sponsoring legislation to repeal the requirement that requires the exhaustion of the cash fund prior to allowing the use of General Fund for reimbursement to county clerks for statewide ballot issues, and at the time of figure setting, fund this line item with General Fund.

**RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S PERFORMANCE PLAN:**

This issue does not address the Department's performance plan. This issue addresses the Department's funding and recommends funding an external, elections expenditure through General Fund as historically provided in statute.

## **Issue: Fund Balance Concerns and Funding for Elections-related External Expenditures II: Narrowing the Window for the Line-by-line Verification of Signatures**

The Initiative and Referendum line item provides funding for the costs of verifying signatures on initiative and other ballot petitions. Statute specifies a sampling process for verifying signatures for initiatives that requires a line-by-line verification if the sampling process establishes a projected percentage between 90 and 110 percent of the number required. A narrower window can still ensure accuracy and integrity while reducing expenditures for this line item.

### **SUMMARY:**

- The Department states that the sampling process for an initiative petition costs about \$30,000, while a line-by-line signature verification costs an additional \$75-85,000, for a total of over \$100,000 for an initiative petition requiring the secondary, line-by-line verification.
- Four of the last five initiative petitions submitted to the Department have required the line-by-line verification.
- Recent data and Department experience suggest that the sampling method varies at most by 4 percent from the line-by-line determined percentage of signatures.

### **RECOMMENDATION:**

Staff recommends that the Committee pursue legislation to amend the line-by-line signature verification process within the ballot petition signature verification process and replace the 90 to 110 percent thresholds with a 95 to 105 percent threshold.

Additionally, based on the projected cash flow and fund balance issues presented in the previous issue, staff recommends that the Committee, *at the time of figure setting for the Department of State*, consider funding the Elections Division, Initiative and Referendum line item, as the other elections-related external expenditure, with General Fund.

### **DISCUSSION:**

#### **Initiative and Referendum Line Item**

The initiative and referendum line item provides funding for the costs of verifying signatures on ballot and initiative petitions. When verifying signatures on petitions, Section 1-40-116, C.R.S. requires the Secretary of State to use a random sampling method of verification, which includes an examination of no less than five percent and at least 4,000 of the signatures.

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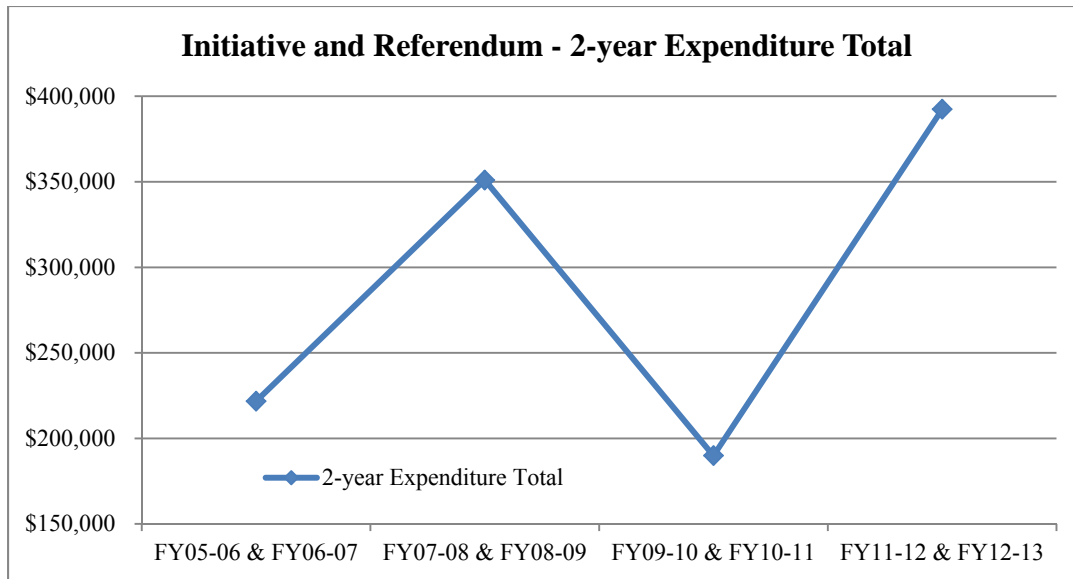
If the random sampling of signatures establishes that the number of valid signatures is 90 percent or less of the required number of registered eligible electors, the petition is deemed to be not sufficient. If the sample process establishes that the number of valid signatures is 110 percent or more of the required number, the petition is deemed sufficient. If the sample process determines that the number of valid signatures is between 90 and 110 percent, the Secretary of State is required to verify each signature through a line-by-line verification process.

Odd-year, statewide elections are allowed exclusively for TABOR-related ballot measures pursuant to Article 41 of Title 1, C.R.S. Therefore, the appropriation for the initiative and referendum line item is normally set at \$150,000 for fiscal years ending in even numbers and \$250,000 for fiscal years ending in odd numbers, due to the nature of the two-year cycle of elections for non-TABOR initiative petitions and their requisite verifications. The following table outlines the expenditures, appropriation, and request amounts for this line item since FY 2004-05.

<b>Department of State, Elections Division, Initiative and Referendum</b>						
	<b>FY 04-05</b>	<b>FY 05-06</b>	<b>FY 06-07</b>	<b>FY 07-08</b>	<b>FY 08-09</b>	
	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	
Long Bill Appropriation/Request	\$500,000	\$50,000	\$200,000	\$50,000	\$200,000	
Final Appropriation	500,000	50,000	200,000	50,000	345,000	
Actual Expenditure	\$33,063	\$83,417	\$138,332	\$50,000	\$301,007	
	<b>FY 09-10</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	<b>FY 12-13</b>	<b>FY13-14</b>	<b>FY14-15</b>
	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Actual</b>	<b>Approp.</b>	<b>Request</b>
Long Bill Appropriation/Request	\$50,000	\$250,000	\$150,000	\$250,000	\$150,000	\$250,000
Final Appropriation	150,000	250,000	234,000	250,000	n/a	n/a
Actual Expenditure	\$149,420	\$40,493	\$184,253	\$208,143	n/a	n/a

The following graph illustrates expenditures totaled over the two-year election cycle for the last eight years of actual expenditures data.

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The Department's budget request for FY 2014-15 includes the annualized increase to \$250,000. Additionally, two-year expenditure totals are showing an increase over the last two years of actual expenditures. The FY 2011-12 and FY 2012-13 period may be indicative of an increasing number of initiative petitions requiring line-by-line signature verifications.

The Department states that the sample process for an initiative petition costs about \$30,000. The line-by-line signature verification costs an additional \$75-85,000, for a total of over \$100,000 for an initiative petition requiring the secondary, line-by-line verification. The Department further states that four of the last five initiative petitions processed have required the line-by-line verification. The following table provides sample process projection percentage compared to the line-by-line verification percentage for the last four initiatives requiring the line-by-line process.

<b>Department of State, Elections Division, Initiative Petition Signature Verification Analysis</b>				
<b>Proposed Initiative</b>	<b>Review Completed</b>	<b>Sample Projection</b>	<b>Line-by-line Actual</b>	<b>Sample Over/(Under)</b>
2011-2012 #30	February 27, 2012	103.04%	105.06%	(2.02%)
2011-2012 #46	August 28, 2012	99.58%	95.52%	4.06%
2011-2012 #82	September 5, 2012	105.61%	101.20%	4.41%
2013-2014 #22	September 4, 2013	107.90%	104.30%	3.60%

The Department states that data from line-by-line verification shows that approximately four percent is the maximum variation experience relative to the sampling process experienced over the last several years.

**A Reconsideration of the Statutory Initiative Petition Signature Verification Process**

Senate Bill 93-135, *Concerning Ballot Issues Proposed Pursuant to the Initiative and Referendum Process*, relocated and amended existing provisions in Article 40 of Title 1, C.R.S., regarding Initiative and Referendum. The current sampling process for petition signature

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verification, located in Section 1-40-116, C.R.S., was added in that bill. Section 1-40-116 (4), C.R.S., reads as follows (emphasis added):

*(4) The secretary of state shall verify the signatures on the petition by use of random sampling. The random sample of signatures to be verified shall be drawn so that every signature filed with the secretary of state shall be given an equal opportunity to be included in the sample. The secretary of state is authorized to engage in rule-making to establish the appropriate methodology for conducting such random sample. The random sampling shall include an examination of no less than five percent of the signatures, but in no event less than four thousand signatures. If the random sample verification establishes that the number of valid signatures is ninety percent or less of the number of registered eligible electors needed to find the petition sufficient, the petition shall be deemed to be not sufficient. If the random sample verification establishes that the number of valid signatures totals one hundred ten percent or more of the number of required signatures of registered eligible electors, the petition shall be deemed sufficient. If the random sampling shows the number of valid signatures to be more than ninety percent but less than one hundred ten percent of the number of signatures of registered eligible electors needed to declare the petition sufficient, the secretary of state shall order the examination and verification of each signature filed.*

The first sentence of the provision defines random sampling as the method for verifying signatures. Current provisions located in Article 40 of Title 1, C.R.S., have so far been considered in case law to be reasonable and applicable statutory guidelines for carrying out the principles in the constitution regarding initiatives. On this basis, staff suggests a reconsideration of the verification process specified in statute to more efficiently provide a verification process that reasonably provides a statistically valid review and still ensures integrity for the initiative process.

Staff recommends that the line-by-line verification process be amended to a reduced threshold of 95 to 105 percent, which provides a margin of approximately one percent over the Department's recent experience when comparing sample process projections with line-by-line verifications.

The line-by-line verification process is at least two-and-a-half times more expensive than the sampling process, and is required after having incurred the cost for the initial sampling process. This is a substantial budget impact related to the provision of a more intensive level of scrutiny built into the statutory requirements for the initiative process that is currently paid for by business registration fees, and that might otherwise be borne by all taxpayers through the General Fund. However, the sampling process should be trusted to deliver a statistically valid assessment within a narrower range.

**The Signature Verification Process for Recall Petitions**

It appears likely that citizens of the State may begin using the recall process more often based on the success of recent recall efforts. The recall process is governed by Article XXI of the Colorado Constitution and Article 12 of Title 1, C.R.S. Specifically, Section 1-12-108 (8), C.R.S., requires a review period of no more than 15 days and specifies that the election official

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*shall review all petition information and verify the information against the registration records,* which is interpreted as a line-by-line review. Due to the lesser number of signatures required for many recall reviews, the Department believes that the smaller sample size precludes the use of a sample process as is provided for initiatives.

Anecdotally, but perhaps significantly, in the case of the recent recall election petitions, one recall proponent group used the Department's online voter registration site to confirm signatures in real time as signatures were being collected through the use of smartphones. Statistics for this recall effort included the submission of 13,466 signatures that required 11,285 for sufficiency. The Department deemed invalid six percent of the signatures collected or a determination that the petition included 112 percent of the number of signatures required. The additional 2,181 signatures submitted represented only 19.3 percent more than necessary, but far less than what is typically experienced and recommended by groups with experience collecting signatures, that includes the recommendation for collection of up to double the targeted number of signatures.

Based on the anecdotal evidence in this case, the online tools made available to the public – in this case accessible through the smartphone medium – from the Department, suggest that current and future ballot petition proponents will continue to have the same ability to determine the validity of signatures being collected in real time. It is reasonable that initiative proponents will continue to submit a number of signatures that more readily meet the number requirement at a slimmer margin. Proponents will of course continue to submit a number that they believe is over 100 percent. But given the access to voter registration information online there would appear to be less reason to submit a number of signatures that would need to exceed 110 percent.

**Conclusion**

The basic signature review process guarantees access to the initiative process for all Colorado citizens while providing citizens of the State assurance that such initiatives have met the requirements for appearing on the ballot. Statute has provided additional guidance regarding the legitimacy of the petition and signature-gathering process that includes the escalation to a more intensive and more costly review process if the initial or primary process fails to meet the threshold set by those statutory requirements. But the wide 90 to 110 percent threshold, as it was added to statute more than 20 years ago, includes either an excessive mistrust of the accuracy available within the sampling method or was intended to absolutely ensure that initiatives deemed sufficient were over 100 percent. Empirical data from the experience of comparisons between the sampling process and the line-by-line verification suggest that the sampling process can achieve accuracy and integrity within a smaller range. Additionally, current information technology tools provide real time access to initiative proponents that allow them to better judge the validity of signatures and more closely determine the number of signatures necessary to be deemed sufficient. The combination of sampling and information technology tools allow for a precision that was not a part of the process when the 90 to 110 percent thresholds were set in statute.

Staff's recommendation does not diminish the right of citizens to access the initiative process. In fact, staff recommends lowering the sufficiency threshold to five percent over and five percent under 100 percent for the sampling process in recognition that the sampling process is a statistically valid process that more efficiently provides integrity required of the signature

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verification process. Staff's recommendation is intended as a budget and cost-saving recommendation that maintains integrity within this constitutionally-established process.

Based on the four initiatives requiring a line-by-line verification, this recommendation would have eliminated two, or 50.0 percent, at a cost savings of approximately \$150,000. Actual expenditures for this line over the two-year period of FY 2011-12 and FY 2012-13, totaled \$392,396. A savings of \$150,000 represents a savings of 38.2 percent.

Additionally, based on the projected cash flow and fund balance issues presented in the previous issue, staff recommends that the Committee consider funding the Initiative and Referendum line item, as the other elections-related external expenditure, with General Fund at figure setting.

**RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S PERFORMANCE PLAN:**

While this issue does not directly address the Department's performance plan, it proposes a more efficient process for initiative petition signature verifications, which may contribute to a faster determination process for more submissions at a lower cost for the Department and the State.



## **Issue: Funding CCR-related Expenses Through the Statewide Indirect Cost Plan**

The Department of State is responsible for publishing the Code of Colorado Regulations (CCR), the State's administrative law. This function is provided for the State and state agencies and is currently funded by the Department of State Cash Fund. This centrally-provided service might more appropriately be funded through the Statewide Indirect Cost Plan prepared by the State Controller's Office.

### **SUMMARY:**

- Section 24-4-103 (11), C.R.S., establishes the responsibility for publishing the CCR with the Department of State.
- The Department of State activities, including CCR-related services, are entirely funded by the Department of State Cash Fund which receives revenues from business and organizational entity registration, filing, and penalty fees.
- While some centrally-provided services are billed directly, the purpose of the Statewide Indirect Cost Plan is to allocate the unbilled costs of statewide central service agencies to state agencies that benefit from these services.
- For FY 2014-15, the Department of State will pay \$128,983 as its statewide indirect cost assessment; an amount which may have been reduced had CCR-related expenses been included in the Statewide Indirect Cost Assessment.

### **RECOMMENDATION:**

Staff recommends that the Committee formally request that the State Controller's Office consider including the CCR-related functions of the Department within the Statewide Indirect Cost Plan beginning in FY 2015-16. If the State Controller's Office determines that this function should not be included in the plan, it should provide a statement to the Committee explaining its reasons for exclusion at the time the FY 2015-16 Statewide Indirect Cost Plan is released.

### **DISCUSSION:**

#### **The Code of Colorado Regulations (CCR)**

The Department has historically been responsible for publishing the Code of Colorado Regulations (CCR), the State's administrative law. Section 24-4-103 (11), C.R.S., establishes this responsibility in the Department (emphasis added):



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*(11) (a) There is hereby established the code of Colorado regulations for the publication of rules of agencies of the executive branch and the Colorado register for the publication of notices of rule-making, proposed rules, attorney general's opinions relating to such rules, and adopted rules. The code and the register shall be the sole official publications for such rules, notices of rule-making, proposed rules, and attorney general's opinions. The code and the register shall contain, where applicable, references to court opinions and recommendations of the legal services committee of the general assembly that relate to or affect such rules and references to any action of the general assembly relating to the extension, expiration, deletion, or rescission of such rules and may contain other items that, in the opinion of the editor, are relevant to such rules. The register may also include other public notices, including annual departmental regulatory agendas submitted by principal departments to the secretary of state pursuant to section 2-7-203, C.R.S.; however, except as specifically permitted by law, the inclusion of such notices in the register shall be in addition to and not in substitution for existing public notice requirements.*

*(b) The secretary of state shall cause to be published in electronic form, and may cause to be published in printed form, at the least cost possible to the state, the code of Colorado regulations and the Colorado register no less often than once each calendar month. In the event of any discrepancy between the electronic and printed form of the code or the register, the electronic form shall prevail unless it is conclusively shown, by reference to the rule-making filings made with the secretary of state pursuant to this section, that the electronic form contains an error in publication.*

The Department handles CCR-related services and publishing in the Business and Licensing Division. Additionally, the IT Services Division manages and maintains the online publication. As with the elections functions for which the Department is responsible, the CCR-related functions are likewise funded from the Department of State Cash Fund that derives its revenue from business entity registration fees.

### **Statewide Indirect Cost Plan**

While some centrally-provided services are billed directly, the purpose of the Statewide Indirect Cost Plan (formally labeled the 2015 Statewide Indirect Cost Appropriation/Cash Fees Plan by the Office of the State Controller and the Office of State Planning and Budgeting) is to allocate the unbilled costs of statewide central service agencies to user departments and institutions of higher education that benefit from these services.

Such centrally-provided services benefit all state agencies but are otherwise impractical to bill for discretely or directly, and the indirect cost recoveries ensure that the General Fund does not support the provision of these services for cash- and federal-funded programs.

Typically, statewide indirect costs are associated with the functions of three departments: (1) the Governor's Office, including the Office of State Planning and Budgeting (OSPB); (2) the Department of Personnel; and (3) the Department of Treasury. Certain departments, including

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State, Labor, and Transportation, do not have General Fund, in which case their statewide indirect cost recoveries are transferred to offset General Fund in other departments, typically the Department of Personnel and the Office of the Governor.

Statewide indirect cost assessments are identified by department, from which expected recoveries are budgeted to offset a corresponding amount of General Fund in the respective department during the figure-setting process. For FY 2014-15, the Department of State will pay \$128,983 as its statewide indirect cost assessment. To fulfill this obligation, the Department, lacking General Fund to offset, will make a payment from the Department of State Cash Fund to the Department of Personnel or the Governor's Office.

**Conclusion**

Staff was unable to secure cost data for CCR-related expenditures from the Department by the time of publication for inclusion in this analysis. However, conceptually it appears reasonable that this centrally-provided service might be funded through the Statewide Indirect Cost Plan prepared by the State Controller's Office each year. In practice, although the Department does not receive General Fund, the provision of a centrally-provided service included in the Statewide Indirect Cost Plan would have the effect of reducing the statewide indirect cost assessment charged to and paid for by the Department, reducing the Department's expenses and cash outflow from the Department of State Cash Fund.

Staff's discussion with the State Controller's Office regarding this issue suggested that although this service has not previously been included in the Statewide Indirect Cost Plan, this element might be considered for inclusion in the plan. Further, it was suggested that the Committee might choose to express its interest formally, to have the State Controller's Office consider including the publication of the CCR and the Department's CCR-related functions in the Statewide Indirect Cost Plan.

Staff recommends that the Committee formally request that the State Controller's Office consider including the CCR-related functions of the Department within the Statewide Indirect Cost Plan beginning in FY 2015-16. If the State Controller's Office determines that this function should not be included in the plan, it should provide a statement to the Committee explaining its reasons for exclusion at the time the FY 2015-16 Statewide Indirect Cost Plan is released.

**RELEVANCE OF BRIEFING ISSUE TO THE DEPARTMENT'S PERFORMANCE PLAN:**

This issue does not address the Department's performance plan. This issue addresses the Department's funding and recommends funding the CCR, a statewide, centrally-provided service, through the Statewide Indirect Cost Plan prepared by the State Controller's Office.

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**Appendix A: Number Pages**

	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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**DEPARTMENT OF STATE**  
**Scott Gessler, Secretary of State**

**(1) ADMINISTRATION**

The Administration Division provides general management and supervision for the entire Department, including budgeting, accounting, and human resources services. Most of the Department's functions are carried out by three sections within this Division: (1) business filings, (2) elections, and (3) licensing and enforcement. Starting in FY 2013-14, these sections are funded by the Department of State Cash Fund.

Personal Services	<u>5,409,712</u>	<u>5,518,992</u>	<u>1,644,439</u>	<u>1,707,139</u>
FTE	82.0	79.6	20.0	19.0
Cash Funds	5,409,712	5,518,992	1,644,439	1,707,139
Health, Life, and Dental	<u>707,454</u>	<u>836,469</u>	<u>873,433</u>	<u>924,392</u>
Cash Funds	707,454	836,469	873,433	924,392
Short-term Disability	<u>10,415</u>	<u>13,800</u>	<u>15,351</u>	<u>17,284</u>
Cash Funds	10,415	13,800	15,351	17,284
S.B. 04-257 Amortization Equalization Disbursement	<u>171,969</u>	<u>244,953</u>	<u>298,569</u>	<u>320,154</u>
Cash Funds	171,969	244,953	298,569	320,154
S.B. 06-235 Supplemental Amortization Equalization Disbursement	<u>129,979</u>	<u>210,507</u>	<u>269,542</u>	<u>300,144</u>
Cash Funds	129,979	210,507	269,542	300,144
Salary Survey	<u>0</u>	<u>0</u>	<u>183,057</u>	<u>131,154</u>
Cash Funds	0	0	183,057	131,154

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
Merit Pay	<u>0</u>	<u>0</u>	<u>114,631</u>	<u>125,831</u>	
Cash Funds	0	0	114,631	125,831	
Workers' Compensation	<u>5,210</u>	<u>6,926</u>	<u>14,078</u>	<u>13,256</u>	
Cash Funds	5,210	6,926	14,078	13,256	
Operating Expenses	<u>874,804</u>	<u>826,247</u>	<u>550,816</u>	<u>550,816</u>	
Cash Funds	874,804	826,247	550,816	550,816	
Legal Services	<u>538,296</u>	<u>481,421</u>	<u>648,307</u>	<u>648,307</u>	
Cash Funds	538,296	481,421	648,307	648,307	
Administrative Law Judge Services	<u>31,441</u>	<u>114,624</u>	<u>31,136</u>	<u>31,216</u>	
Cash Funds	31,441	114,624	31,136	31,216	
Purchase of Services from Computer Center	<u>1,640</u>	<u>102,789</u>	<u>165,228</u>	<u>95,106</u>	
Cash Funds	1,640	102,789	165,228	95,106	
Colorado State Network	<u>66,234</u>	<u>0</u>	<u>105,595</u>	<u>105,595</u>	
Cash Funds	66,234	0	105,595	105,595	
Payment to Risk Management and Property Funds	<u>22,264</u>	<u>37,672</u>	<u>40,676</u>	<u>52,559</u>	
Cash Funds	22,264	37,672	40,676	52,559	
Vehicle Lease Payments	<u>2,861</u>	<u>2,963</u>	<u>3,345</u>	<u>528</u>	
Cash Funds	2,861	2,963	3,345	528	
Leased Space	<u>529,826</u>	<u>631,682</u>	<u>641,271</u>	<u>658,026</u>	
Cash Funds	529,826	631,682	641,271	658,026	

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	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>	<b>Request vs. Appropriation</b>
COFRS Modernization	<u>0</u>	<u>40,140</u>	<u>40,140</u>	<u>40,140</u>	
Cash Funds	0	40,140	40,140	40,140	
Information Technology Security	<u>0</u>	<u>0</u>	<u>2,787</u>	<u>4,221</u>	
Cash Funds	0	0	2,787	4,221	
Indirect Cost Assessment	<u>136,752</u>	<u>105,838</u>	<u>107,012</u>	<u>128,983</u>	
Cash Funds	136,752	105,838	107,012	128,983	
Discretionary Fund	<u>5,000</u>	<u>4,740</u>	<u>5,000</u>	<u>5,000</u>	
Cash Funds	5,000	4,740	5,000	5,000	
<b>TOTAL - (1) Administration</b>	8,643,857	9,179,763	5,754,413	5,859,851	1.8%
<i>FTE</i>	<u>82.0</u>	<u>79.6</u>	<u>20.0</u>	<u>19.0</u>	(5.0%)
Cash Funds	8,643,857	9,179,763	5,754,413	5,859,851	1.8%

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
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**(2) INFORMATION TECHNOLOGY**

The Information Technology Services division provides most of the technology support for the Department and is responsible for the Department's compliance with the Colorado Information Security Act. The Department provides search and filing services via the internet and it processes over 1,200 web-based transactions daily. The division also provides project direction and support for the statewide voter registration and election management system. Funding is provided by the Department of State Cash Fund. In prior fiscal years, the Statewide Disaster Recovery Center was at least partially funded and administered in this Division. That responsibility has been transferred to the Governor's Office of Information Technology.

**(A) Information Technology**

Provides IT support to the Department and manages the statewide voter registration database.

Personal Services	<u>2,972,174</u>	<u>4,259,246</u>	<u>6,956,730</u>	<u>5,616,601</u>	
FTE	27.6	32.1	36.0	36.0	
Cash Funds	2,972,174	4,259,246	6,956,730	5,616,601	
Operating Expenses	<u>470,780</u>	<u>468,747</u>	<u>610,815</u>	<u>806,112</u>	
Cash Funds	470,780	468,747	610,815	806,112	
Hardware/Software Maintenance	<u>949,735</u>	<u>1,433,895</u>	<u>1,569,370</u>	<u>1,738,242</u>	
Cash Funds	949,735	1,433,895	1,569,370	1,738,242	
Information Technology Asset Management	<u>441,750</u>	<u>372,460</u>	<u>605,683</u>	<u>445,418</u>	
Cash Funds	441,750	372,460	605,683	445,418	
<b>SUBTOTAL - (A) Information Technology</b>	4,834,439	6,534,348	9,742,598	8,606,373	(11.7%)
FTE	<u>27.6</u>	<u>32.1</u>	<u>36.0</u>	<u>36.0</u>	<u>0.0%</u>
Cash Funds	4,834,439	6,534,348	9,742,598	8,606,373	(11.7%)

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**(B) Statewide Disaster Recovery Center**

Responsibility for the Statewide Disaster Recovery Center was transferred to the Office of Information Technology in FY 2011-12, though funding was transferred in one-third increments starting in FY 2011-12. For FY 2013-14, the Department of State no longer provides funding for this function.

Personal Services	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
FTE	0.0	0.0	0.0	0.0	
Cash Funds	0	0	0	0	
Operating Expenses	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	0	0	0	
Hardware/Software Maintenance	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	
Cash Funds	0	0	0	0	
Leased Space	<u>1,576,523</u>	<u>776,497</u>	<u>0</u>	<u>0</u>	
Cash Funds	1,576,523	776,497	0	0	

<b>SUBTOTAL - (B) Statewide Disaster Recovery Center</b>	1,576,523	776,497	0	0	0.0%
FTE	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0%</u>
Cash Funds	1,576,523	776,497	0	0	0.0%

<b>TOTAL - (2) Information Technology</b>	6,410,962	7,310,845	9,742,598	8,606,373	(11.7%)
FTE	<u>27.6</u>	<u>32.1</u>	<u>36.0</u>	<u>36.0</u>	<u>0.0%</u>
Cash Funds	6,410,962	7,310,845	9,742,598	8,606,373	(11.7%)

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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
<b>(3) ELECTIONS DIVISION</b>					
Personal Services	<u>0</u>	<u>0</u>	<u>2,104,744</u>	<u>2,118,433</u>	
FTE	0.0	0.0	35.0	34.2	
Cash Funds	0	0	2,104,744	2,118,433	
Operating Expenses	<u>0</u>	<u>0</u>	<u>263,258</u>	<u>200,389</u>	
Cash Funds	0	0	263,258	200,389	
Help America Vote Act Program	<u>695,840</u>	<u>852,371</u>	<u>349,222</u>	<u>349,222</u>	
FTE	0.0	0.0	0.0	0.0	
Cash Funds	695,840	852,371	349,222	349,222	
Local Election Reimbursement	<u>1,541,360</u>	<u>2,226,707</u>	<u>2,004,036</u>	<u>2,004,036</u>	
Cash Funds	1,541,360	2,226,707	2,004,036	2,004,036	
Initiative and Referendum	<u>184,253</u>	<u>208,156</u>	<u>150,000</u>	<u>250,000</u>	
Cash Funds	184,253	208,156	150,000	250,000	
<b>TOTAL - (3) Elections Division</b>	2,421,453	3,287,234	4,871,260	4,922,080	1.0%
FTE	<u>0.0</u>	<u>0.0</u>	<u>35.0</u>	<u>34.2</u>	(2.3%)
Cash Funds	2,421,453	3,287,234	4,871,260	4,922,080	1.0%



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	FY 2011-12 Actual	FY 2012-13 Actual	FY 2013-14 Appropriation	FY 2014-15 Request	Request vs. Appropriation
<b>(4) BUSINESS AND LICENSING DIVISION</b>					
Personal Services	<u>0</u>	<u>0</u>	<u>2,376,946</u>	<u>2,441,968</u>	
FTE	0.0	0.0	48.0	48.0	
Cash Funds	0	0	2,376,946	2,441,968	
Operating Expenses	<u>0</u>	<u>0</u>	<u>163,000</u>	<u>163,000</u>	
Cash Funds	0	0	163,000	163,000	
<b>TOTAL - (4) Business and Licensing Division</b>	0	0	2,539,946	2,604,968	2.6%
FTE	<u>0.0</u>	<u>0.0</u>	<u>48.0</u>	<u>48.0</u>	<u>0.0%</u>
Cash Funds	0	0	2,539,946	2,604,968	2.6%
<b>TOTAL - Department of State</b>	17,476,272	19,777,842	22,908,217	21,993,272	(4.0%)
FTE	<u>109.6</u>	<u>111.7</u>	<u>139.0</u>	<u>137.2</u>	<u>(1.3%)</u>
Cash Funds	17,476,272	19,777,842	22,908,217	21,993,272	(4.0%)

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

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### **2012 Session Bills**

**S.B. 12-123 (Brown/Renfroe): Electronic Filing System.** Requires the Secretary of State to implement enhancements to the on-line business filing system; authorizes a registered agent to become a "commercial registered agent", allowing that agent to file documents relating to multiple entities; allows the Secretary of State to charge a fee for the licensing or sale of business and licensing software developed by the Secretary of State; and appropriates \$525,788 cash funds for FY 2012-13 from the DOS Cash Fund to implement the bill.

**H.B. 12-1143 (Ferrandino/Steadman): State reimbursement to Counties for Ballot Measure Elections.** Adjusts the rate at which the state is required to reimburse a county for the cost of duties performed by the county clerk and recorder in conducting an election in which a state ballot issue or state ballot questing is on the ballot of the county. For counties with 10,000 or fewer active registered electors, the rate is increased from 80 cents to 90 cents for each active register elector at the time of the election. For counties with more than 10,000 active registered electors, the rate is increased from 70 cents to 80 cents for each active register elector at the time of the election. Appropriates \$233,128 cash funds for FY 2012-13 from the DOS Cash Fund for the purpose of reimbursing the counties.

**H.B. 12-1209 (Gardner/Carroll): Uniform Electronic Legal Material Act.** The bill was drafted by the National Conference of Commissioners on Uniform State Laws. Requires the official publisher of legal material to, if the material is only published electronically, designate the material as official. If the material is published in another format, the publisher may make that designation. Electronic legal material in an electronic record by the official publisher is presumed to be an accurate copy of legal material.

**H.B. 12-1236 (Summers/Jahn): Regulation of Charitable Solicitations.** Excludes grant writers from the definition of "paid solicitor" unless the grant writer's compensation is computed on the basis of funds raised from the grant; specifies that fundraising on behalf of a named individual is not a charitable appeal and such fundraisers do not have to register with the Secretary of State. Appropriates \$41,440 cash funds for FY 2012-13 from the DOS Cash Fund for the implementation of the Act.

**H.B. 12-1274 (Swerdfeger/Jahn): Regulation of Notaries Public.** Modifies the Secretary of State's regulation of notaries public by allowing, at the discretion of the Secretary, electronic filing of applications and renewals; clarifies disciplinary and non-disciplinary actions that the Secretary may take against a notary public; disallows the use of a seal embosser; and updates the information a notary public includes on his or her official seal, which is required to be rectangular. In addition, the Act repeals the Notary Administration Cash Fund (NACF) and transfers fees collected in connection to the regulation of notary publics to the DOS Cash Fund. Appropriates \$22,400 cash funds in FY 2012-13 from the DOS Cash Fund to implement electronic filing, and adjust appropriations from the DOS Cash Fund and the NACF to account for the repeal of the NACF.

**H.B. 12-1292 (Murray/Heath): Technical Modifications Laws Relating to the Administration of Elections.** Makes various technical and non-substantive changes to elections laws; alters or clarifies elections-related deadlines; updates procedures in light of modern elections practices or technology; corrects, streamlines, or harmonizes laws; and recognizes the existence of more than two major political parties.

In addition, the act:

- Adds tribal identification to the list of acceptable elector identification.
- Requires the county clerk and recorder to use the deliverable mailing address when the elector has provided both an address of record and a deliverable mailing address.
- Makes gender an optional response for a person registering to vote.
- Allows an elector to mail a change of address request and aligns the time within which such request must be executed with the deadlines for submitting a mail-in ballot request.
- Allows county clerk and recorders to cancel deficient applications to register to vote after two years.
- Repeals the criminal offense of intentional failure to properly deliver voter registration applications.
- Raises the filing fee to \$1,000 for an unaffiliated candidate for President or Vice President of the United State or Congress.
- Allows a candidate to use a nickname on the ballot in all elections, provided that the candidate regularly uses that nickname and it does not contain any words of the name of a major political party.
- Authorizes any designated election official, rather than solely county clerks and recorders, to use student election judges.
- Conforms state law to federal law by allowing any person to assist voters who need assistance.
- Allows an eligible elector to request his or her ballot in-person after the ballot has been printed but prior to it being mailed and to obtain a mail ballot by making an in-person request after it has been printed but before it is mailed.

## **2013 Session Bills**

**S.B. 13-104:** Supplemental appropriations act to modify FY 2012-13 appropriations.

**S.B. 13-230:** General appropriations act for FY 2013-14.

**H.B. 13-1101:** Authorizes bingo-raffle licensees to offer progressive raffles where the jackpot is carried over and increased from one drawing to the next until the jackpot is awarded and to offer consolation prizes where the jackpot is not won. The Secretary of State is authorized to establish rules specifying the conduct of progressive raffles, including limiting the maximum jackpot and the maximum number of simultaneous progressive raffles that may be conducted. Appropriates \$25,160 cash funds to the Department of State for FY 2013-14 for contract programming services to make the necessary changes to the bingo-raffles licensing system.

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**H.B. 13-1135:** Allows a person who has turned 16 years of age, who will not be 18 years of age by the date of the next election, to preregister to vote. The registrant will be registered automatically upon turning 18 years of age. Appropriates \$26,640 cash funds to the Department of State for FY 2013-14 for necessary computer programming modifications.

**H.B. 13-1138:** Establishes the requirements for a corporation to be created as or convert to a "benefit corporation", including that the corporation is intended to produce one or more public benefits and to operate in a responsible and sustainable manner. Requires the corporation to provide information in its annual report on the benefits that the corporation has promoted specific benefits. Appropriates \$91,760 cash funds to the Department of State for FY 2013-14 for contract computer programming services to implement the required changes to the Department's computer systems.

**H.B. 13-1167:** Requires the Secretary of State (SOS) to *request* information from business owners filing documents with the SOS regarding the business owners' gender, race, veteran status, disability, and the National American Industry Classification code. The submission of the requested information is voluntary on the part of the owner. The SOS is required to make this information available to the public in a searchable manner. Appropriates \$74,592 cash funds to the Department of State for FY 2013-14 for contract computer programming services to implement the required changes to the Department's computer systems.

**H.B. 13-1303:** Requires that all general, primary, odd-year, coordinated, presidential, special legislative, recall, and congressional vacancy elections are to be conducted as mail ballot elections and the county clerks are required to mail a ballot to all active registered voters. Voters have the option of returning the ballot by mail, dropping the ballot off at a voter service and polling center (center), or casting a ballot at a center.

Requires clerks to operate the center in all covered elections and eliminates polling places. Centers are required to be open for at least 15 days prior to and including election day (Sundays excluded). The center must have the ability to:

- Register a person to vote;
- Allow a voter to cast a ballot, including a provisional ballot;
- Accept mail ballots deposited by electors;
- Allow a registered voter to update his or her name, if legally changed, and his or her address;
- Allow an unaffiliated voter to affiliate with a political party and cast a ballot in a primary election;
- Access the statewide voter registration database (SCORE) through a secure computer connection, except that counties with fewer than 25,000 registered voters may, upon demonstrating hardship, seek approval from the Secretary to State to access SCORE and conduct real-time verification of voter eligibility by telephone or other means;
- Provide mail ballots to requesting voters;
- Provide original and replacement ballots; and
- Creates the Voter Access and Modernized Elections Commission.

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Centers serve all voters in the county and the number of centers and the number and type of ballot drop-off locations that counties must provide are specified. Voters may register to vote by mail or through a voter registration agency or voter registration drive up to 22 days before an election, register online through the Secretary of State (SOS) website up to 8 days before an election, register in person at a county clerk's office, when registrations are permitted, and register at a voter service center up to and including election day. Requires the voter to reside in a precinct to vote and reduces the time required for state residency to 22 days. Eliminates the state of "Inactive – Failed to Vote" and shifts all voters to active status. Allows county clerks, with voter permission, to send certain election-related communications to voters electronically, except for ballots and confirmation cards.

Requires the SOS to conduct a National Change of Address database search on all registered voters in the SOCRE database, and to transmit the results monthly to county clerks. Specifies the procedures for county clerks to confirm that the voters identified in the search have moved. Requires the SOS to enter into data sharing agreements with the Department of Public Health and Environment and the Department of Corrections to cross-check person registering to vote with death records and felon lists, respectively.

Appropriates \$1,317,181 cash funds and 4.0 FTE to the Department of State for FY 2013-14 for contract computer programming services, personal services, the costs related to the Voter Access and Modernized Elections Commission, program testing, and other costs to implement the bill.

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

### **Long Bill Footnotes**

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

### **Requests for Information**

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

## **Appendix D: Indirect Cost Assessment Methodology**

### **Description of Indirect Cost Assessment Methodology**

The Department of State does not receive appropriations from the General Fund. The Department is funded entirely by the Department of State Cash Fund, therefore, the Department does not have an indirect cost recovery plan for departmental indirect costs. It is part of the Statewide Indirect Cost Plan as determined by the State Controller and the Department has a line item in the Administration Division that accounts for that appropriation.

Recent appropriations and the FY 2014-15 request are detailed in the table below.

<b>Department of State</b>				
<b>Recent Statewide Indirect Cost Actuals, Appropriation, and Request</b>				
	<b>FY 2011-12 Actual</b>	<b>FY 2012-13 Actual</b>	<b>FY 2013-14 Appropriation</b>	<b>FY 2014-15 Request</b>
Statewide Indirects	\$136,752	\$105,838	\$107,012	\$128,983

## **Appendix E: Change Requests' Relationship to Measures**

This appendix will show how the Department of State indicates each change request ranks in relation to the Department's priorities and what measures the Department is using to gauge success of the request.

<b>Change Requests' Relationship to Measures</b>			
<b>R</b>	<b>Change Request Description</b>	<b>Goals / Objectives</b>	<b>Measures</b>
N/A	N/A	N/A	N/A