

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING THE RESTORATION OF A PRESIDENTIAL PRIMARY ELECTION IN COLORADO.

Prime Sponsors: Sens. Ulibarri and Crowder
Reps. Moreno and Dore

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Fiscal Impact of Bill as Amended to Date

The most recent Legislative Council Staff Fiscal Note (attached) reflects the fiscal impact of the bill as of 04/30/15.

	No Change: Attached LCS Fiscal Note accurately reflects the fiscal impact of the bill
XXX	Update: Fiscal impact has changed due to <i>new information or technical issues</i>
	Update: Fiscal impact has changed due to <i>amendment adopted</i> after LCS Fiscal Note was prepared
	Non-Concurrence: JBC Staff and Legislative Council Staff disagree about the fiscal impact of the bill

The Senate State, Veterans, and Military Affairs Committee Report (05/01/15) includes amendments to the bill, however, Legislative Council Staff and JBC Staff agree that the committee amendments do not change the fiscal impact of the bill.

Reason for the Update

Legislative Council Staff (LCS) and JBC Staff concur that the fund source for the appropriation required for this bill should be the Department of State (DOS) Cash Fund rather than General Fund as indicated in the current LCS Fiscal Note. Accordingly, JBC Staff has written amendment **J.001** to add an appropriation from the DOS Cash Fund based on the assumption that it is the primary fund source for election reimbursement payments under current law and to limit the General Fund impact of the bill to the amount required above and beyond existing revenue. In addition, the Department submitted a revised assessment of the fiscal impact of this bill (05/01/15), increasing the estimated cost by \$41,195 to a total of \$1,718,844. JBC Staff amendment **J.001** reflects the updated cost estimate.

Background

Pursuant to Section 1-5-505.5, C.R.S., the Department of State is required to reimburse counties for the cost of elections with a state-wide ballot issue or question. These payments are currently made from the DOS Cash Fund, which is predominately supported by revenue from business filing fees. Section 2 of S.B. 15-287 authorizes the use of revenue from the DOS Cash Fund to reimburse counties for costs associated with presidential primary elections in addition to existing reimbursement requirements.

The Department estimates that the FY 2014-15 year-end balance for the DOS Cash Fund will be \$3.28 million and has expressed concern that a fee increase could be necessary to ensure there is enough revenue on-hand to cover all required reimbursements. Pursuant to 24-21-104 (3) (b), C.R.S., the Department is authorized to adjust fees to generate enough revenue to cover direct and indirect costs, but any fee increase will have a General Fund impact via the TABOR set-aside required to offset the increase in non-exempt revenue.

The Department has indicated that the General Fund is the preferred fund source for all costs associated with this bill. If there are insufficient funds to cover reimbursements, Section 24-21-104.5, C.R.S, indicates that a General Fund appropriation may be made after exhausting all moneys in the DOS Cash Fund. This provision would also apply to reimbursements for presidential primary elections under this bill.

However, the General Fund impact of the TABOR set-aside from fully funding the bill from the DOS Cash Fund would likely be less than the total cost of a direct General Fund appropriation. The Department was not able to provide enough information to allow Legislative Council Staff or JBC Staff to estimate the portion of the cost of the bill that could be supported under the existing fee schedule or the size of the potential fee adjustment, but the DOS Cash Fund should have the capacity to support at least some portion of the required expenditures before requiring the fee increase and thus impacting the General Fund.

Amendments in This Packet for Consideration by Appropriations Committee

Amendment	Description
J.001	Staff-prepared appropriation amendment

Current Appropriations Clause in Bill

The bill requires but does not contain an appropriation clause.

Description of Amendments in This Packet

J.001 Staff has prepared amendment **J.001** (attached) to add a provision appropriating a total of \$1,718,844 cash funds from the Department of State Cash Fund to the Department of State for FY 2015-16.

Points to Consider

TABOR/ Excess State Revenues Impact

The March 2015 Legislative Council Staff (LCS) revenue forecast projects a TABOR surplus liability in FY 2015-16 and FY 2016-17. These sums must be refunded to taxpayers out of the General Fund. Legislation that increases non-exempt revenue (such as cash funds) to the State will further increase the TABOR refund made out of the General Fund. Correspondingly, this will reduce the amount of General Fund available for programs. If the Committee adopts amendment **J.001**, the

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bill could require the Department of State to increase fees to generate additional cash fund revenues in FY 2015-16. This would reduce the available General Fund by an equal amount.