

JOINT BUDGET COMMITTEE



SUPPLEMENTAL BUDGET REQUESTS FY 2021-22

DEPARTMENT OF STATE

JBC WORKING DOCUMENT - SUBJECT TO CHANGE
STAFF RECOMMENDATION DOES NOT REPRESENT COMMITTEE DECISION

PREPARED BY:
ABBY MAGNUS, JBC STAFF
JANUARY 18, 2022

JOINT BUDGET COMMITTEE STAFF
200 E. 14TH AVENUE, 3RD FLOOR • DENVER • COLORADO • 80203
TELEPHONE: (303) 866-2061 • TDD: (303) 866-3472
<https://leg.colorado.gov/agencies/joint-budget-committee>

CONTENTS

Department Overview	1
Summary: FY 2021-22 Appropriation and Recommendation	1
Previously Approved Interim Supplemental Request Descriptions.....	1
Statewide Common Policy Supplemental Requests.....	1
Prioritized Supplemental Requests.....	2
S2 Security Services for Department of State	2
Department Request:.....	2
Staff Recommendation:	2
Staff Analysis:	2
Previously Approved Interim Supplemental Request	5
Summary:	5
Committee Action:	5
Statewide Common Policy Supplemental Requests.....	6
Staff Recommendation:	6
Numbers Pages.....	7

DEPARTMENT OF STATE

DEPARTMENT OVERVIEW

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

SUMMARY: FY 2021-22 APPROPRIATION AND RECOMMENDATION

DEPARTMENT OF STATE: RECOMMENDED CHANGES FOR FY 2021-22				
	TOTAL FUNDS	GENERAL FUND	CASH FUNDS	FTE
FY 2021-22 APPROPRIATION				
SB 21-205 (Long Bill)	\$32,664,385	\$271,360	\$32,393,025	146.5
Other legislation	534,018	0	534,018	0.7
CURRENT FY 2021-22 APPROPRIATION:	\$33,198,403	\$271,360	\$32,927,043	147.2
RECOMMENDED CHANGES				
Current FY 2021-22 Appropriation	\$33,198,403	271,360	\$32,927,043	147.2
S1 Election ballot tracking	0	0	0	0.0
S2 DOS security services	120,800	0	120,800	0.0
*NPS1 Annual fleet supplemental	(2,256)	0	(2,256)	0.0
RECOMMENDED FY 2021-22 APPROPRIATION:	\$33,316,947	\$271,360	\$33,045,587	147.2
RECOMMENDED INCREASE/(DECREASE)				
	\$118,544	\$0	\$118,544	0.0
Percentage Change	0.4%	0.0%	0.4%	0.0%
FY 2021-22 EXECUTIVE REQUEST				
Request Above/(Below) Recommendation	\$0	\$120,800	(\$120,800)	0.0

*Reflects the request, pending Committee common policy decision.

REQUEST/RECOMMENDATION DESCRIPTIONS

S2 SECURITY SERVICES FOR DEPARTMENT OF STATE: The Department requests \$120,800 General Fund for security services. The recommendation is \$120,800 from the DOS Cash Fund.

PREVIOUSLY APPROVED INTERIM SUPPLEMENTAL REQUEST DESCRIPTIONS

S1 NOVEMBER 2021 COORDINATED ELECTION BALLOT TRACKING: The Department requested a one-time net-zero shift of \$75,000 from the DOS cash fund from one line item to another. The Committee approved staff recommendation of the request on September 21, 2021. Staff will include the approved adjustments in the supplemental bill for the Department. No further action is required.

STATEWIDE COMMON POLICY SUPPLEMENTAL REQUESTS

COMMON POLICY REQUEST (ANNUAL FLEET SUPPLEMENTAL): The request includes a reduction of \$2,256 in cash funds. The recommendation is pending Committee common policy decisions.

PRIORITIZED SUPPLEMENTAL REQUESTS

S2 SECURITY SERVICES FOR DEPARTMENT OF STATE

	REQUEST	RECOMMENDATION
TOTAL	\$120,800	\$120,800
FTE	0.0	0.0
General Fund	120,800	0
Cash Funds	0	120,800
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? YES

[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.]

Explanation: JBC Staff and the Department agree that this request is a result of unforeseen contingencies given the dramatic increase in threats towards the Secretary, Department staff, and elections, and the associated safety concerns.

DEPARTMENT REQUEST: The Department requests a total of \$120,800 in General Fund, including:

- \$70,000 for FY 2021-22 for threat monitoring security services; and
- \$50,800 for FY 2021-22 for personal physical security services.

The Department has also submitted a budget request (R1) for an annual General Fund appropriation of \$184,800 starting in FY 2022-23 for the same purposes.

STAFF RECOMMENDATION: Staff recommends approving \$120,800 in DOS Cash Fund spending authority for FY 2021-22 for these services.

STAFF ANALYSIS: Staff recommends increased DOS Cash Fund spending authority of \$120,800 for both physical security and threat monitoring services through the end of FY 2021-22, to ensure the immediate safety and well-being of the Secretary, Department staff, and State elections.

DOS CASH FUND

The Department’s focus with this request is their ability to ensure free and fair elections and mitigate threats to the State’s election personnel and infrastructure. In consultation with legal services, staff finds that this could fall under the direct and indirect costs of the Department as stated in Section 24-21-104 (3)(b), C.R.S, and no statutory changes would be necessary.

If this funding were to come out of the DOS Cash Fund, it would be unlikely to trigger a fee increase for FY 2021-22. The Department indicates that in order to account for these costs it may need to prolong vacancy savings or reduce the use of contractor time. They state both of these would be detrimental for them, and may be necessary in order to manage monthly net cash fund flow which is unequally distributed across the calendar year. The Department is estimating a \$3 million uncommitted fee reserve balance for the DOS Cash Fund in FY 2021-22. This is lower than in previous years due to the estimated cash flow deficit of \$1.6 million for FY 2021-22. While this appears to be sufficient to absorb a \$120,800 increase in annual costs, the Department states that it would be more difficult for them to manage on a monthly basis.

GENERAL FUND

The Department believes these services should be covered by an appropriation from the General Fund. They believe there is a clear public interest in protecting the State's election infrastructure and find it reasonable that the General Fund should bear the cost of this necessary protection. In consultation with legal services staff, JBC staff has determined that this may require a statutory amendment regarding the Department's ability to appropriate General Fund for this purpose.

If the Committee approves General Fund spending authority, JBC staff recommends that the Committee sponsor legislation to amend Section 24-21-104.5, C.R.S, to authorize the use of General Fund for this purpose, rather than the DOS Cash Fund. Staff would request permission to begin working with the Department and the Office of Legislative Legal Services on a committee bill draft to implement this legislative change.

BACKGROUND

Elections workers across the U.S. have been subject to rising levels of threats of violence in the wake of the 2020 General Election. This has been noted by the U.S. Departments of Justice (DOJ) and Homeland Security (DHS). The DOJ Task Force on Threats to Election Officials is requesting that election officials send them information on threats they have identified. Research from the Bipartisan Policy Center and the Brennan Center calls the increases in the level of threats election workers received in 2020 and 2021 alarming. In their report, they recommend that states:

- Pass new laws and appropriate funds to provide greater personal security for election officials and workers; and
- Make additional investments to secure election offices and ensure that they have processes in place to coordinate swift investigation and prosecution of those responsible for threats to election workers¹.

CURRENT SITUATION

Department of State personnel and the Secretary of State have increasingly and repeatedly been the subject of violent threats, public posting of private information, and online harassment. The Department sees these as threats to personnel as well as State election infrastructure.

- The Department had previously allocated staff to sift through social media and identify threats to Department personnel and elections. While these staff were able to identify several threats and bring them to Colorado State Patrol (CSP) and the Colorado Information Analysis Center (CIAC), the Department states these staff did not have the expertise or long-term capacity to continue these efforts.
- CSP previously provided one-off security for the Secretary in June of 2021, however the Department's needs for physical security go beyond the authority of CSP. CSP is required only to protect the Governor and his family as well as members of the General Assembly when in the State Capitol Complex or as requested by legislative leadership. There is no security mandate for other statewide elected officials.

CSP and the Department have been in regular conversations about the Department's security concerns. The focus of CSP and CIAC is identifying threats to State personnel and property and determining whether they meet a standard for actionability. The Department has a need for a more immediate approach to both information on threats as well as physical security, to ensure the safety

¹ https://www.brennancenter.org/sites/default/files/2021-06/BCJ-130_Election%20Officials_fact%20sheet.pdf

of Department personnel and the administration of elections. Given the statutory constraints of CSP and the needs of the Department, CSP put forth several options for consideration for the Department, including working with the Denver Police Department as well as private security. Department of State leadership, after discussions with a number of federal and state groups, determined it was necessary to immediately work with a vendor to establish threat monitoring processes for mainstream social media platforms as well as engage a private security firm for public events. This work has been completed within the Department's existing legal spending authority in the current fiscal year.

- The Department began contracting with an external vendor on threat monitoring in November 2021, this contract is through June 30, 2022. This vendor is contracted at a monthly rate of \$10,000 for approximately seven months of services.
- The Department has utilized private physical security services five times this current fiscal year. These included Election Day, a public press conference, a public event with the Hispanic Chamber of Commerce in Denver, a trip to the Western Slope for a series of visits, a public event on voting rights in Denver, and the National Association of Secretaries of State Conference in Des Moines, Iowa. The Department has expended \$8,100 on these services so far.

RECOMMENDATION

Staff recommends the Committee approve \$120,800 in DOS Cash Fund spending authority, as a temporary measure to ensure the safety of the Secretary of State, Department personnel, and State elections for FY 2021-22.

Alternatively, if the Committee approves \$120,800 in General Fund, staff recommends that the Committee sponsor legislation to modify Section 24-21-104.5, C.R.S, to authorize the use of General Fund for this purpose. Under this provision, the Department is required to set the fees that are credited to the DOS Cash Fund based on its total direct and indirect costs. This provision includes specific exceptions for certain types of election expenses that are instead covered by General Fund appropriations. The recommended bill would expand these exceptions to include election-related security expenses.

When the Committee considers the Department's request for continuation funding for FY 2022-23 and subsequent fiscal years, staff recommends that it consider policy options that offer a comprehensive, long-term solution to addressing security concerns that may arise for any state elected officials.

PREVIOUSLY APPROVED INTERIM SUPPLEMENTAL REQUEST

S1 NOVEMBER 2021 COORDINATED ELECTION BALLOT TRACKING

	REQUEST	RECOMMENDATION	
TOTAL		\$0	\$0
FTE		0.0	0.0
General Fund		0	0
Cash Funds		0	0
Federal Funds		0	0

DEPARTMENT REQUEST: The Department requested a one-time net \$0 shift of \$75,000 cash funds from the DOS Cash Fund from one line to another. This shift would move spending authority from the Operating Expenses line item in the Administration Division to the Hardware/Software Maintenance line item in the Information Technology Division. This funding shift allowed the Department to support ballot tracking software during the November 2021 election.

SUMMARY: This supplemental budget request came as a result of the experience using the BallotTrax software in the 2020 General Election. The Department has taken steps to increase transparency and confidence in elections, one of these being expanding statewide ballot tracking software to all Colorado counties during the 2020 General Election. With over half of Colorado voters utilizing the software in that election, the Department wanted to continue to support this initiative statewide during the November 2021 Coordinated election. This did not necessitate an increase in appropriations to the Department, but the Department did need increased spending authority, which they requested be shifted from the Operating Expenses line item to the Hardware/Software Maintenance line item. Staff recommended approval of the request.

For more information on this supplemental request, see the document presented by JBC staff analyst Mitch Burmeister, on September 21, 2021: https://leg.colorado.gov/sites/default/files/sta_09-20-21.pdf.

COMMITTEE ACTION: The Joint Budget Committee approved the staff recommendation for this interim supplemental request on September 21, 2021. Staff will include the approved adjustments in the supplemental bill for the Department. No further action is required.

STATEWIDE COMMON POLICY SUPPLEMENTAL REQUESTS

These requests are not prioritized and are not analyzed in this packet. The JBC will act on these items later when it makes decisions regarding common policies.

DEPARTMENT'S PORTION OF STATEWIDE SUPPLEMENTAL REQUEST	TOTAL	GENERAL FUND	CASH FUNDS	REAPPROP. FUNDS	FEDERAL FUNDS	FTE
Annual Fleet Supplemental	(\$2,256)	\$0	(\$2,256)	\$0	\$0	0.0
DEPARTMENT'S TOTAL STATEWIDE SUPPLEMENTAL REQUESTS	(\$2,256)	\$0	(\$2,256)	\$0	\$0	0.0

STAFF RECOMMENDATION: The staff recommendation for this request is pending Committee action on common policy supplementals. Staff will include the corresponding appropriation in the Department's supplemental bill based on Committee action on common policy supplementals. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee at a later date to present the relevant analysis.

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

Appendix A: Numbers Pages

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
--	----------------------	-----------------------------	--------------------------------	----------------------------	------------------------------------

DEPARTMENT OF STATE
Jena Griswold, Secretary of State

S-1 November 2021 election ballot tracking

(1) ADMINISTRATION DIVISION

Operating Expenses	<u>315,861</u>	<u>450,000</u>	<u>(75,000)</u>	<u>(75,000)</u>	<u>375,000</u>
General Fund	0	0	0	0	0
Cash Funds	315,861	450,000	(75,000)	(75,000)	375,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

(2) INFORMATION TECHNOLOGY DIVISION

Information Technology

Hardware/Software Maintenance	<u>2,296,357</u>	<u>2,405,550</u>	<u>75,000</u>	<u>75,000</u>	<u>2,480,550</u>
General Fund	0	0	0	0	0
Cash Funds	2,296,357	2,405,550	75,000	75,000	2,480,550
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

Total for S-1 November 2021 election ballot tracking	2,612,218	2,855,550	0	0	2,855,550
<i>FTE</i>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
General Fund	0	0	0	0	0
Cash Funds	2,612,218	2,855,550	0	0	2,855,550
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
S-2 Security services for DOS					
(1) ADMINISTRATION DIVISION					
Personal Services	<u>2,046,910</u>	<u>2,064,622</u>	<u>113,800</u>	<u>113,800</u>	<u>2,178,422</u>
FTE	22.7	21.1	0.0	0.0	21.1
General Fund	0	0	113,800	0	0
Cash Funds	2,046,910	2,064,622	0	113,800	2,178,422
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Operating Expenses	<u>315,861</u>	<u>450,000</u>	<u>7,000</u>	<u>7,000</u>	<u>457,000</u>
General Fund	0	0	7,000	0	0
Cash Funds	315,861	450,000	0	7,000	457,000
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Total for S-2 Security services for DOS	<u>2,362,771</u>	<u>2,514,622</u>	<u>120,800</u>	<u>120,800</u>	<u>2,635,422</u>
FTE	<u>22.7</u>	<u>21.1</u>	<u>0.0</u>	<u>0.0</u>	<u>21.1</u>
General Fund	0	0	120,800	0	0
Cash Funds	2,362,771	2,514,622	0	120,800	2,635,422
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

JBC Staff Supplemental Recommendations - FY 2021-22
Staff Working Document - Does Not Represent Committee Decision

	FY 2020-21 Actual	FY 2021-22 Appropriation	FY 2021-22 Requested Change	FY 2021-22 Rec'd Change	FY 2021-22 Total w/Rec'd Change
Totals Excluding Pending Items					
STATE					
TOTALS for ALL Departmental line items	39,312,071	33,198,403	120,800	120,800	33,319,203
<i>FTE</i>	<u>142.0</u>	<u>147.2</u>	<u>0.0</u>	<u>0.0</u>	<u>147.2</u>
General Fund	0	271,360	120,800	0	271,360
Cash Funds	32,081,212	32,927,043	0	120,800	33,047,843
Reappropriated Funds	0	0	0	0	NaN
Federal Funds	7,230,859	0	0	0	NaN