

DEPARTMENT OF STATE
FY 2020-21 JOINT BUDGET COMMITTEE HEARING AGENDA

Tuesday, December 17, 2019
11:00 am – 12:00 pm

11:00-11:10 INTRODUCTIONS AND OPENING COMMENTS

Presenter: Jena Griswold, Secretary of State

11:10-11:40 ELECTIONS DIVISION

Main Presenters:

- Jena Griswold, Secretary of State
- Brad Lang, Controller and Budget Director
- Judd Choate, Elections Division Director

Supporting Presenters:

- Jenny Flanagan, Deputy Secretary of State

Topics:

- Outreach to Eligible but Unregistered Voters: Page 1, Questions 1-2 in the packet
- ERIC Membership: Page 2, Questions 3-4 in the packet
- House Bill 19-1278 Issues: Page 2, Question 5 in the packet

11:40-11:50 INFORMATION TECHNOLOGY DIVISION

Main Presenters:

- Jena Griswold, Secretary of State
- Brad Lang, Controller and Budget Director
- Trevor Timmons, Chief Information Officer

Supporting Presenters:

- Jenny Flanagan, Deputy Secretary of State

Topics:

- Recent and Ongoing Projects: Page 3, Question 6 in the packet

11:50-12:00 OTHER TOPICS

Main Presenters:

- Jena Griswold, Secretary of State
- Brad Lang, Controller and Budget Director

Supporting Presenters:

- Mike Hardin, Business & Licensing Division Director
- Judd Choate, Elections Division Director
- Jenny Flanagan, Deputy Secretary of State

Topics:

- Document Management Services: Page 4, Question 7 in the packet
- Business Filing Fees and Revenue: Page 5, Questions 8 in the packet
- Cash Funds subject to TABOR: Page 10, Questions 9 in the packet

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Tuesday, December 17, 2019
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ELECTIONS DIVISION

OUTREACH TO ELIGIBLE BUT UNREGISTERED VOTERS

- 1 Please explain why the Department is concentrating on voter outreach for the General Election rather than the March and June primary elections. Should we consider outreach efforts for all three opportunities?

The voter outreach using the list of eligible, but unregistered voters from the Electronic Registration Information Center (ERIC) is intended to accompany the Department's existing outreach efforts. Under Secretary Griswold's leadership, and with approval from the General Assembly, the Department amended its FY 2019-20 budget request to include \$900,000 for a public awareness campaign related to the upcoming March and June 2020 primary elections. Efforts on this campaign are underway and it is designed to educate voters on the new presidential primary as well as the expanded state primary election. The campaign will target all voters – Democratic, Republican, Unaffiliated, as well as third-party electors. Greater detail on this campaign is provided in our written response to question 13 in the common questions section below.

Colorado's contract with ERIC requires that once every two years the Department send a mailing to eligible, but unregistered Coloradans who have not previously been sent a mailing. ERIC has researched when it is most effective (returns the highest percentage of registered voters) to contact eligible, but unregistered voters. ERIC's data demonstrates that conducting the mailing as close to the general election as possible leads to optimal results.

In 2012 Colorado contacted every eligible but unregistered resident because it was the state's first year in ERIC. Moreover, membership in ERIC required a mailing to all eligible but unregistered residents. After that initial mailing, however, ERIC membership only requires that a state mail to those who are new to that list every two years. In 2020, Colorado plans to mail to the entire list of those eligible but unregistered, including people who have previously received a mailing.

- 2 Due to recent legislation concerning automatic voter registration, it is likely that many voters not currently registered may become registered automatically (e.g., when they renew their driver's license). Are we duplicating efforts through this outreach effort?

It is doubtful that these efforts would be duplicative – at least not a high percentage. First, the vast majority of citizens to whom postcards will be sent this election cycle are long-time Colorado residents who are unlikely to have frequent interactions with the Division of Motor Vehicles (DMV). Second, the mailing will occur within two weeks of the date when the ERIC list is pulled. Thus, only people who have a DMV visit within those two weeks will be automatically registered between the time the list is pulled and when the Department sends the mailing.

ELECTRONIC REGISTRATION INFORMATION CENTER (ERIC) MEMBERSHIP

- 3 Which states are currently members of ERIC? How do they collect data? For what other purposes is the data collected by ERIC useful? Explain the benefits of participation for Colorado.

Twenty-nine states and the District of Columbia are members of ERIC. Specifically, the ERIC member states are: Alabama, Alaska, Arizona, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nevada, New Mexico, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, Washington, Washington, D.C., West Virginia, and Wisconsin.

ERIC data is used for multiple purposes. It is used to identify 1) in-state duplicates (people registered more than once in Colorado)¹, 2) out-of-state duplicates (people registered in Colorado and also in another member state), 3) people who have died but are still registered², and 4) people who fall into the previous three categories who may have voted illegally. The most obvious benefit of ERIC is it saves money. By having a clean list of registered voters, Colorado counties do not mail ballots to people who have moved or died prior to the election. ERIC data keeps the SCORE voter registration database as clean as possible.

- 4 What is the cost for the State to participate in ERIC?

For FY 2019-20, Colorado's ERIC membership cost \$30,110.

HOUSE BILL 19-1278 ISSUES

- 5 Please clarify your intent regarding sponsorship for legislation to modify H.B. 19-1278.

Representative Susan Lontine and Senator Steve Fenberg, the original sponsors of HB 19-1278, plan to carry the modification legislation in the 2020 session. The Department appreciates this committee's support in this matter. For further information, please see page 12 from the Department's Staff Budget Briefing document.

¹ ERIC's technology provides additional means of identifying duplicate voter registration records. As a result, the Department uses it to supplement its own practices for eliminating in-state duplicates.

² The ERIC data on deceased voters is the Social Security Death Index (SSDI) and it supplements the Deceased Resident File that the Department receives from the Colorado Department of Public Health and the Environment (CDPHE). CDPHE provides the Deceased Resident File to the Department monthly throughout the year, except that in the month prior to an election CDPHE provides the file twice (on the 15th and the 30th day).

INFORMATION TECHNOLOGY DIVISION

RECENT AND ONGOING PROJECTS

- 6 Because the Department's information technology services do not fall under the Governor's Office of Information of Technology, please provide a brief status of any recent or ongoing information technology projects.

The Department maintains a technical team that is independent of the state Chief Information Officer (CIO). Even while the Department's team is separate from the Governor's Office of Information Technology (OIT), the Department maintains a solid and productive working relationship with the OIT's technical resources. The Department commends the new state CIO and the Governor for establishing a monthly user group that brings together state technology leaders and experts from every state agency to work to find ways to collaborate effectively on issues of interest to Colorado residents and the state workforce.

The Department's technical resources have been integrating secure DevOps³ practices into its software development processes. Secure DevOps emphasizes security at every step; a sense of shared responsibility across all work units in the office from developers to infrastructure staff, from users, product owners and program managers to project managers; leveraging automated processes to achieve consistent results; and, breaking work into small batches to see results quickly. The Department is seeing gains in its ability to focus on the important things first and improving the quality of the work that it does.

The Department is currently engaged in two major information technology (IT) projects: modernizing the business registration software systems; and, modernizing the state voter registration and election management system (SCORE). These projects are proceeding well even while Department staff are simultaneously taking on smaller projects such as changes to the lobbyist system mandated by law, or implementing full automatic voter registration processes in coordination with the driver's license unit at the Department of Revenue. Given the Department's current workload, it is preferable not to do more IT projects that are required to be completed before the end of calendar year 2020.

In preparation for the three elections that will take place in calendar year 2020, the Department will host Election Preparedness for Infrastructure and Cybersecurity (EPIC) exercises for state and county elections officials in January. EPIC is a day-long table top exercise in which county officials, including elections, IT, and others work through possible elections cybersecurity and

³ Gartner defines DevOps as:

DevOps represents a change in IT culture, focusing on rapid IT service delivery through the adoption of agile, lean practices in the context of a system-oriented approach. DevOps emphasizes people (and culture), and seeks to improve collaboration between operations and development teams. DevOps implementations utilize technology — especially automation tools that can leverage an increasingly programmable and dynamic infrastructure from a life cycle perspective.

Source: <http://www.gartner.com/it-glossary/devops> (accessed September 12, 2017).

other scenarios in preparation for upcoming elections. Colorado conducted a successful EPIC workshop in 2018 and will repeat the process with an entirely new version in 2020.

Of course, Department staff also devotes substantial energy and resources to cybersecurity and election security. While Colorado is typically held in high regard by security and elections experts, maintaining a solid cybersecurity posture and capability is a never-ending effort. Colorado is working with local, state, and federal officials constantly to assess its programs and activities and to remain a leader in the nation. The Secretary has been a vocal proponent of working with national security agencies such as the Cybersecurity and Infrastructure Security Agency (CISA), the Federal Bureau of Investigation (FBI), and the Office of the Director of National Intelligence (ODNI) to rapidly process information and intelligence findings. The Department needs this information to enable state and local officials the best opportunity to understand threats to elections whether they are physical or cybersecurity-oriented, or challenges to voter confidence due to misinformation or disinformation.

The Department is currently in conversations with a number of state leaders to consider strategies for Colorado to attempt to address the growing impact of ransomware and other attacks on public sector offices. The Department has direct knowledge of the serious impact on state and local services and residents due to ransomware and malicious hackers, not the least of which is the recent incident at the Colorado Department of Transportation. The Department believes that Colorado can do more to assist locals with assessing their systems from a risk perspective, closing gaps based on those assessments, and building out a rapid response capability in the state to assist counties when they are subject to cybersecurity attacks. Taking action to assist county and local officials protect systems from cyber threats can also help to protect statewide systems.

OTHER TOPICS

DOCUMENT MANAGEMENT SERVICES

7 In the past, the Secretary of State has expressed concerns about the Department of Personnel's charges for document management services. Is the Secretary still concerned about the costs of purchasing such services from the Department of Personnel?

Yes, the costs of the Document Solutions Group (DSG) at Integrated Document Solutions (IDS), a division of the Department of Personnel Administration (DPA) have increased substantially over the past three years. CDOS is concerned that the costs will continue to increase. This is especially the case in calendar year 2020, as IDS uses temporary employees to review petitions and temporary workers may be otherwise occupied working on the US Census. IDS has worked closely with the Department to roll out a new petition review system, the rollout of which caused some delays in the most recent petition review. While the level of service has been good, the cost of using DSG has become so exorbitant that the Department has priced out other options, including performing petition reviews in-house. If the Department stays with IDS and IDS costs continue to increase, the expense related to petition review will assume a larger portion of the Department's budget. In addition, as a result of Amendment 71 in 2016, it is typically much

more expensive for the Department to process petitions that propose changes to the Colorado Constitution than petitions for statutory changes.

The Department appreciates the change in FY 2019-20 to a common policy-style billing for the petition review services provided by IDS. This provides greater year-to-year certainty in petition review costs, which enables the Department to better plan and manage its finances.

BUSINESS FILING FEES AND REVENUE

- 8 Provide historical information (for at least five fiscal years, seven if possible) concerning business filing fees and the associated revenues collected annually.

Colorado business filing fees have remained among the lowest in the nation for well over a decade. The Business and Licensing Division specifically has continuously improved its efficiencies over the years despite a significant increase in customers. For example, entities in good standing increased approximately 48 percent between calendar year 2012 and 2019 (499,518 at the end of 2012 compared with 742,772 as of December 9, 2019). To maintain service levels, the division has conducted extensive cross-training, enhanced phone technology, converted additional paper filings to online filings, and improved customer education through online training.

Business filing fees have remained largely unchanged for the last seven years. However, the Department elected to reduce some fees, as described below:

- a. Dissolving a Colorado Business was reduced from \$25 to \$10 effective October 1, 2016. There are approximately 30,000 dissolution filings annually.
- b. Statements of Change and Correction were converted from paper to online filings and the cost was reduced from \$150 to \$10 effective November 14, 2017.
- c. There were two temporary business fee holidays:
 - i. From December 1, 2012 through February 28, 2013, all online business filings were reduced to \$1. The press release on the Department's website provides additional details on the impacted fees.
<https://www.sos.state.co.us/pubs/newsRoom/pressReleases/2012/PR20121119BusinessFees.html>
 - ii. From July 1, 2014 through October 31, 2014, all online new business filings were reduced from \$50 to \$1.

Table 1 below provides the current business fees.

Category of Fee/Item	Online Fee	Paper Fee
<i>Business Transactions</i>		
Periodic Report	\$10.00	n/a
Periodic Report Late Filing Penalty	\$50.00	n/a
Reservation of Name	\$25.00	n/a
Reserved Name Transfer	\$25.00	n/a
Reserved Name Renewal	\$25.00	n/a
Statement of Change Changing the Entity Name	\$10.00	n/a
Statement of Change Changing the Principal Office Address	\$10.00	n/a
Statement of Change Changing the Registered Agent Information	\$10.00	n/a
Statement of Change Regarding Resignation or Other Termination of Registered Agent	\$10.00	n/a
Statement of Change to Add an Attachment	\$10.00	n/a
Statement of Correction Correcting a Delayed Effective Date	n/a	\$150.00
Statement of Correction Correcting the Entity Name	\$10.00	n/a
Statement of Correction Correcting a Mistakenly Filed Domestic Entity that was meant to be a Foreign Entity	n/a	\$150.00
Statement of Correction Correcting a Mistakenly Filed Foreign Entity that was meant to be a Domestic Entity	n/a	\$150.00
Statement of Correction Correcting the Principal Office Address	\$10.00	n/a
Statement of Correction Correcting the Registered Agent Information	\$10.00	n/a
Statement of Correction: Registered Agent Has Not Consented	\$10.00	n/a
Statement of Correction Revoking a Filed Document	n/a	\$150.00
Statement of Correction Correcting Information for Historical Purposes	\$10.00	n/a
Conversion Statements	\$50.00	n/a
Combined Conversions	\$100.00	n/a
Merger Statement	n/a	\$150.00
Reinstatement	\$100.00	n/a
Statement Curing Delinquency	\$100.00	n/a
Statement of Dissolution of Delinquent Entity	\$10.00	n/a
Statement Appointing an Agent (Unincorporated Nonprofit Associations)	n/a	\$150.00
Restated Constituent Filed Document	\$25.00	n/a
Statement of Extension of Term	n/a	\$125.00
Statement of Removal of Personal Identifying Information	n/a	Free

Category of Fee/Item	Online Fee	Paper Fee
<i>Profit Corporations</i>		
Articles of Incorporation	\$50.00	n/a
Amend Articles of Incorporation	\$25.00	n/a
Amend and Restate Articles of Incorporation	\$25.00	n/a
Dissolve a Profit Corporation	\$10.00	n/a
Share Exchange Statement	n/a	150
<i>Nonprofit Corporations</i>		
Articles of Incorporation	\$50.00	n/a
Articles of Incorporation for a Corporation Sole	n/a	125
Amend Articles of Incorporation	\$25.00	n/a
Amend and Restate Articles of Incorporation	\$25.00	n/a
Election to Accept the Colorado Revised Nonprofit Corporation Act	n/a	150
Dissolve a Nonprofit Corporation	\$10.00	n/a
<i>Article 55 Cooperative Associations</i>		
Articles of Incorporation	\$50.00	n/a
Amend Articles of Incorporation	\$25.00	n/a
Amend and Restate Articles of Incorporation	\$25.00	n/a
Dissolve an Article 55 Cooperative	\$10.00	n/a
Election Statement	n/a	150
<i>Article 56 Cooperatives</i>		
Articles of Incorporation	\$50.00	n/a
Amend Articles of Incorporation	\$25.00	n/a
Amend and Restate Articles of Incorporation	\$25.00	n/a
Dissolve a Article 56 Cooperative	\$10.00	n/a
Consolidation Statement	n/a	150
Share Exchange Statement	n/a	150
Election Statement	n/a	150
<i>Limited Cooperative Associations</i>		
Articles of Organization	\$50.00	n/a
Amend Articles of Organization	\$25.00	n/a
Amend and Restate Articles of Organization	\$25.00	n/a
Dissolve a Limited Cooperative Association	\$10.00	n/a
<i>Limited Partnership Associations</i>		
Articles of Association	\$50.00	n/a
Amend Articles of Association	\$25.00	n/a
Amend and Restate Articles of Association	\$25.00	n/a
Dissolve a Limited Partnership Association	\$10.00	n/a

Category of Fee/Item	Online Fee	Paper Fee
<i>Limited Liability Company</i>		
Articles of Organization	\$50.00	n/a
Amend Articles of Organization	\$25.00	n/a
Amend and Restate Articles of Organization	\$25.00	n/a
Dissolve a Limited Liability Company	\$10.00	n/a
<i>Partnerships</i>		
Certificate of Limited Partnership	\$50.00	n/a
Statement of Election to Be a Reporting Entity	\$10.00	n/a
Amend Certificate of Limited Partnership	\$25.00	n/a
Amend and Restate Certificate of Limited Partnership	\$25.00	n/a
Dissolve an article 62 Partnership	\$10.00	n/a
Combined Certificate of Limited Partnership and Statement of Registration	\$50.00	n/a
General Partnership Registration (LLP)	\$50.00	n/a
Amend and Restate General Partnership Registration (LLP)	\$25.00	n/a
Limited Liability Partnership Registration Withdrawal (LLP)	\$25.00	n/a
Limited Partnership Registration (LLL)	\$50.00	n/a
Amend and Restate Limited Partnership Registration (LLL)	\$25.00	n/a
Limited Liability Limited Partnership Registration Withdrawal (LLL)	\$25.00	n/a
Statement of Change Changing the Entity Name	\$10.00	n/a
Statement of Correction Correcting the Entity Name	\$10.00	n/a
Partnership Authority Statement	n/a	150
Denial Statement	n/a	150
Dissociation Statement	n/a	150
Dissolve an Article 64 Partnership	n/a	150
<i>Foreign Entities</i>		
Foreign Entity Authority Statement	\$100.00	n/a
Foreign Entity Authority Withdrawal	\$10.00	n/a
Statement of Change Changing the Assumed Entity Name	\$10.00	n/a
Statement of Change Changing the Entity Form	\$10.00	n/a
Statement of Change Changing the Jurisdiction	\$10.00	n/a
Statement of Change Changing the True Name	\$10.00	n/a
Statement of Change Removing the Assumed Entity Name	\$10.00	n/a
Statement of Correction Correcting the Assumed Entity Name	\$10.00	n/a
Statement of Correction Correcting the Entity Form	\$10.00	n/a
Statement of Correction Correcting the Jurisdiction	\$10.00	n/a

Category of Fee/Item	Online Fee	Paper Fee
Statement of Correction Correcting the True Name	\$10.00	n/a
Statement of Correction Removing the Assumed Entity Name	\$10.00	n/a
Statement of Registration of True Name	\$25.00	n/a
Statement of Renewal of Registration of True Name	\$25.00	n/a
Statement of Change Changing the True Name Jurisdiction	\$10.00	n/a
Statement of Correction Correcting the True Name Jurisdiction	\$10.00	n/a
Statement of Change Withdrawing a Registration of True Name	\$10.00	n/a
<i>Trademarks</i>		
Trademark Registration	\$30.00	n/a
Trademark Transfer	\$10.00	n/a
Trademark Renewal	\$10.00	n/a
Trademark Withdrawal	\$10.00	n/a
Change of Trademark Information	\$10.00	n/a
Correction of Trademark Information	\$10.00	n/a
<i>Trade Names</i>		
Trade Name Statement	\$20.00	n/a
Trade Name Renewal	\$5.00	n/a
Trade Name Withdrawal	\$10.00	n/a
Change of Trade Name Information	\$10.00	n/a
Correction of Trade Name Information	\$10.00	n/a
<i>Certificates and Other Services</i>		
Expedited Service, business organization document filing (fulfilled within 3 business days) – additional fee	n/a	\$150.00
Certificate of good standing, certificates of fact, certified copies	Free	n/a
Apostille (per document)	n/a	\$5.00 routine \$15.00 expedited

Table 1 The table provides current business fee data. This data is also available on the Department's website: https://www.sos.state.co.us/pubs/info_center/fees/business.html.

Revenue data is shown in Table 2 below.

Fiscal Year	Revenue from Business Filing Fees	Total Department of State Cash Fund Revenue
FY 2012-13	\$12,749,090	\$14,838,261
FY 2013-14	\$16,335,768	\$20,869,466
FY 2014-15	\$16,981,602	\$19,878,791
FY 2015-16	\$19,097,497	\$21,462,890
FY 2016-17	\$20,048,615	\$22,446,407
FY 2017-18	\$20,744,376	\$23,075,111
FY 2018-19	\$21,565,606	\$24,225,526

Table 2 The table provides business filing fee revenue and total revenue for the Department of State Cash Fund for the seven most recently completed fiscal years.

CASH FUNDS SUBJECT TO TABOR

9 Please identify which of the Department’s cash funds are subject to TABOR.

In FY 2019-20, the Department manages four funds, which are shown together with their TABOR status in Table 3 below. TABOR status is based solely upon whether or not fee revenue in the funds counts towards the State’s TABOR revenue cap, and is not based on whether or not fee revenue in the funds is subject to TABOR’s voter approval requirements. The Department’s position is that all of the charges listed in Table 1 above are fees, not taxes, and therefore are not subject to voter approval under TABOR.

Fund Name	Source of Revenue	Subject to TABOR	Statutory Reference
Department of State Cash Fund	Fees	Yes	§24-21-104(3)(b) C.R.S.
Electronic Recording Technology Fund	Surcharge on county clerk recording transactions	Exempt ⁴	§24-21-404(1)(a) C.R.S.
Federal Elections Assistance Fund	Federal Grants	Exempt	§1-1.5-106(1)(a) C.R.S.
Local Elections Assistance Cash Fund	Interest ⁵	Yes	§24-21-104.9(2) C.R.S.

Table 3 The table shows the four funds that the Department manages and in which it has conducted transactions in FY 2019-20.

⁴ The Electronic Recording Technology Board (ERTB) is an enterprise for the purposes of TABOR (§24-21-402(2) C.R.S.).

⁵ Initially, \$2.096 million was transferred into the Local Elections Assistance Cash Fund from the General Fund (HB19-1278).

ADDENDUM: OTHER QUESTIONS FOR WHICH SOLELY WRITTEN RESPONSES ARE REQUESTED. PLEASE RETAIN THE NUMBERING IN ORDER TO MAINTAIN CONSISTENT LABELING FOR COMMON QUESTIONS ACROSS DEPARTMENTS.

- 10 Provide a list of any legislation that the Department has: (a) not implemented, or (b) partially implemented. Explain why the Department has not implemented or has only partially implemented the legislation on this list. Please explain any problems the Department is having implementing any legislation and any suggestions you have to modify legislation.

(a) Not Implemented

The Department is in process and on track to implement SB19-086 (Update Business Entity Laws) and SB19-235 (Automatic Voter Registration) by their July 1, 2020 implementation date.

(b) Partially Implemented

The Business and Licensing Division has partially implemented SB12-123 (Enhance Secretary of State On-line Filing System). The two sections not completed reference Commercial Registered Agents and a Business Association Tool. By statute, these sections will be implemented "as soon as practicable." Partial implantation is due to limited department resources, new legislation, and prioritization. The division is incorporating these two features into the Department's current business system rewrite. Development for the rewrite began in August 2019 and is anticipated to continue over the next few years. The current business system went live in July 2004, is outdated, and requires a complete update to meet customer technology expectations.

- 11 Does the Department have any HIGH PRIORITY OUTSTANDING recommendations as identified in the "Annual Report: Status of Outstanding Audit Recommendations" that was published by the State Auditor's Office and dated June 30, 2019 (link below)? What is the Department doing to resolve the HIGH PRIORITY OUTSTANDING recommendations? Please indicate where in the Department's budget request actions taken towards resolving HIGH PRIORITY OUTSTANDING recommendations can be found.

<http://leg.colorado.gov/audits/annual-report-status-outstanding-audit-recommendations-june-30-2019>

The Department does not have any High Priority Outstanding Audit Recommendations.

12 If the Department receives federal funds of any type, please respond to the following:

- a. Are you expecting any changes in federal funding with the passage of the FFY 2020-21 federal budget? If yes, in which programs, and what is the match requirement for each program?

It is unclear whether additional funding will be provided to states under the Help America Vote Act (HAVA). Both the House and Senate versions of the Federal Fiscal Year (FFY) 2020-21 federal budget include additional funding under HAVA. Both chambers' budgets propose allocating the additional HAVA funding to states using a formula based upon population. The House version includes \$600 million in additional HAVA funds designated for election security purposes. At \$600 million, Colorado would expect to receive approximately \$9.0 million. The Senate version of the FFY 2020-21 federal budget includes \$250 million in additional HAVA funds. At \$250 million, Colorado would expect to receive approximately \$4.3 million. Based upon the requirements of past HAVA funding, the Department anticipates that the State will be required to provide a five percent match, which would be \$450,000 under the House version of the budget or \$215,000 under the Senate version.

- b. Does the Department have a contingency plan if federal funds are eliminated?

The Department's FY 2020-21 Budget Request does not include any new federal funds revenue. The federal funding the Department does have is from multiple grants under HAVA. At the beginning of Fiscal Year 2019-20, the Department had approximately \$6.9 million in available HAVA funds. To date, all of the funds the Department has been awarded under HAVA have been advanced to the Department by the Federal Government. These funds are recorded in the Federal Elections Assistance Fund (Section 1-1.5-106(1)(a) C.R.S.). Provided the Department continues to expend these funds lawfully and to meet the requirements of the grants, it is unlikely that the Federal Government would attempt to claw them back. This is especially true given the national attention currently devoted to elections security.

That said, with no guarantee that the Federal Government will continue to provide funding, the Department has been cautious about establishing ongoing obligations with money from a one-time source of funding. Once the current HAVA funds are exhausted, and if no new Federal Government funding is forthcoming, the Department may need to seek additional state funding for elections in order to continue to be a national leader in secure and accurate elections. If this is necessary, the Department will address it through a future budget request.

- c. Please provide a detailed description of any federal sanctions or potential sanctions for state activities of which the Department is already aware. In addition, please provide a detailed description of any sanctions that MAY be issued against the Department by the federal government during FFY 2019-20 or 2020-21.

The Department does not have any federal sanctions, is not aware of any potential sanctions, and does not anticipate any sanctions during Federal Fiscal Years 2019-20 or 2020-21.

- d. Compared to other states, Colorado ranks low in receipt of federal dollars. How can the Department increase the amount of federal money received?

The Department receives federal funding under HAVA to support the conduct of federal elections. HAVA funds are allocated to states using a formula based on population. As a result, proportionally Colorado's federal elections funding is equal to every other state (except small population states, where the minimum federal outlay is proportionally higher). The Department has urged for congress to appropriate additional HAVA funding.

- e. What state funds are currently utilized to draw down (or match) federal dollars? What state funding would be required to increase the amount of federal funding received?

The 2018 HAVA Election Security Grant required the Department to provide a 5.0 percent State match. The Department has already met this requirement in full. The State matching funds were provided from the Department of State Cash Fund. Anticipated state funding requirements for new HAVA money is discussed in the response to part a above.

- 13 Is the Department spending money on public awareness campaigns? If so, please describe these campaigns, the goal of the messaging, the cost of the campaign, and distinguish between paid media and earned media. Further, please describe any metrics regarding effectiveness and whether the Department is working with other state or federal departments to coordinate the campaign?

The Department is planning a statewide paid and earned communications campaign designed to educate voters on the new presidential primary in addition to the state primary election. This aspect of the communications campaign will target all voters - Democratic, Republican, Unaffiliated, as well as third-party electors. In addition, the Secretary of State is building on the "U Choose" campaign executed by the previous Secretary that educated voters about the preferred proactive primary party selection as well as voting procedures for those receiving a two-ballot packet.⁶ This aspect of the campaign will target unaffiliated voters of every demographic type throughout Colorado. By proactively informing voters of the two 2020 primaries and building on the prior campaign that informed voters of the open primary procedures, the Department expects to maximize voter participation and minimize voter confusion. The paid aspect of the campaign has a \$900,000 budget. This budget is based upon a combination of the Department's experience with two voter awareness campaigns: the "U Choose" campaign executed by the Department under Secretary of State Wayne Williams in advance of the 2018 Primary Election and the Online Voter Registration Campaign executed by the Department under Secretary of State Scott Gessler in 2012. The earned aspect of the communications campaign will be executed by Department staff and partners, such as the Colorado County Clerks. A very small portion of the paid budget will go to supporting earned media efforts, for example, sample messaging for county clerks.

With regard to metrics, the Department is tracking total cost, per audience-member-reached cost, ballot spoilage rate by county and statewide, and turnout rates of unaffiliated voters by county. It

⁶ Unaffiliated electors who have not expressed a preferred proactive party selection, will receive a ballot packet with both major party primary ballots.

will provide data on these metrics together with information on the methods used to reach unaffiliated voters and the methodology used to improve spoilage rates in counties with an above average rate in the 2018 General Election to the JBC as the committee requested in a letter dated May 1, 2019.

- 14 Based on the Department's most recent available record, what is the FTE vacancy and turnover rate: (1) by department; (2) by division; (3) by program for programs with at least 20 FTE; and (4) by occupational class for classes that are located within a larger occupational group containing at least 20 FTE. To what does the Department attribute this turnover/vacancy experience? Do the statewide compensation policies or practices administered by the Department of Personnel help or hinder the department in addressing vacancy or turnover issues?

The Department utilizes exit interview data to track the reason for employee separation. In FY 2018-19, most staff left the Department to take another job opportunity. Additional reasons for separation included retirement or due to the temporary nature of the position.

As reported by the Department in prior years, the statewide compensation policies make it difficult to fill certain positions, which puts a strain on IT and Human Resources. For example, the Department has posted IT positions multiple times to fill one vacancy. The Department has lost qualified candidates because the offered salary is well below the expectations of the candidate and the salary range available in the market. The compensation policies do allow for some flexibility, but only in certain circumstances. Overall, the compensation policies hinder the Department's ability to hire candidates into specialized roles, especially in the IT field.

The statewide policies also make the hiring process challenging. Additional mechanisms are needed to streamline processes and modernize the candidate experience. Improvements are needed to be more inclusive of candidates that have the required knowledge and skills to do the job, but do not meet specific degree requirements.

Vacancy and turnover rate data is provided in Tables 4, 5, and 6 below.

(1) By Department

	Vacancy Rate	Turnover Rate
Department of State	11.90%	13.74%

Table 4 The table shows FY 2018-19 vacancy rate and turnover rate data for the Department. Vacancy rate data was calculated using actual hours from the annual FTE Burn Report divided by appropriated FTE. Turnover rate data was calculated using Department Human Resources data.

(2) By Division

Division	Vacancy Rate	Turnover Rate
Administration	0.00%	29.27%
Business & Licensing	18.72%	10.96%
Elections	11.20%	11.43%
Information Technology	11.00%	10.26%

Table 5 The table shows FY 2018-19 vacancy rate and turnover rate data for each of the Department's four divisions. The same methodology as described in Table 4 was used for each metric.

(3) By Program

The Department does not have any programs with 20 or more FTE.

(4) By Occupational Class

The Department has a single occupation class with 20 or more FTE: IT Professional. This data is presented below in Table 6.

	Vacancy Rate	Turnover Rate
T1A2XX - IT Professional	10.27%	2.56%

Table 6 The table shows FY 2018-19 vacancy rate and turnover rate data for the IT Professional occupational class within the Department. Calculations were done using the same methodology as for Tables 4 and 5.

15 Please identify how many rules you have promulgated in the past two years (FYs 2017-18 and 2018-19). With respect to these rules, have you done any cost-benefit analyses pursuant to Section 24-4-103 (2.5), C.R.S., regulatory analyses pursuant to Section 24-4-103 (4.5), C.R.S., or any other similar analysis? Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

(a) How many rules have you promulgated in the past two years (FYs 2017-18 and 2018-19)?

i. FY 2017-18

The Department adopted multiple new or amended permanent rules between July 1, 2017 and June 30, 2018 as shown in Table 7 below.

Tracking Number	CCR Number	CCR Title	Adopted Date	Effective Date
<u>2017-00221</u>	8 CCR 1505-1	ELECTIONS	8/11/2017	9/30/2017
<u>2017-00240</u>	8 CCR 1505-2	BINGO AND RAFFLES GAMES	8/7/2017	9/30/2017
<u>2017-00398</u>	8 CCR 1505-6	RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE	10/25/2017	12/15/2017
<u>2017-00494</u>	8 CCR 1505-1	ELECTIONS	12/7/2017	1/30/2018
<u>2018-00034</u>	8 CCR 1505-1	ELECTIONS	3/26/2018	5/15/2018
<u>2018-00095</u>	8 CCR 1505-11	NOTARY PROGRAM RULES	5/15/2018	7/1/2018
<u>2018-00096</u>	8 CCR 1505-8	RULES CONCERNING LOBBYIST REGULATION	5/10/2018	6/30/2018

Table 7 The table provides new or amended permanent rules adopted during Fiscal Year 2017-18

ii. FY 2018-19

The Department adopted multiple new or amended permanent rules between July 1, 2018 and June 30, 2019 as shown in Table 8 below.

Tracking Number	CCR Number	CCR Title	Adopted Date	Effective Date
<u>2018-00221</u>	8 CCR 1505-1	ELECTIONS	8/22/2018	10/15/2018
<u>2018-00222</u>	8 CCR 1505-6	RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE	7/11/2018	8/30/2018
<u>2018-00296</u>	8 CCR 1505-1	ELECTIONS	8/22/2018	10/15/2018
<u>2018-00315</u>	8 CCR 1505-9	RULES FOR THE ADMINISTRATION OF THE COLORADO CHARITABLE SOLICITATIONS ACT	9/21/2018	11/14/2018
<u>2018-00402</u>	8 CCR 1505-6	RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE	10/11/2018	11/30/2018
<u>2018-00560</u>	8 CCR 1505-6	RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE	12/3/2018	1/30/2019

Table 8 The table provides new or amended permanent rules adopted during Fiscal Year 2018-19.

- (b) Have you done any cost-benefit analysis pursuant to Section 24-4-103(4.5) C.R.S. regulatory analyses pursuant to Section 24-4-103(4.5) C.R.S. or any similar analysis?

No, the Department did not receive cost-benefit or regulatory analysis requests for any of the above rulemaking proceedings.

- (c) Have you conducted a cost-benefit analysis of the Department's rules as a whole? If so, please provide an overview of each analysis.

No, the Department has not conducted a cost-benefit analysis of the Department's rules as a whole.

16 What are the major cost drivers impacting the Department? Is there a difference between the price inflation the Department is experiencing compared to the general CPI? Please describe any specific cost escalations.

In FY 2019-20 the Department operates primarily in five funds. The key drivers of expenses for each fund are outlined in Table 9 below.

Fund	Key Expense Drivers
CDOS Cash Fund	<ul style="list-style-type: none"> • Personal Services Costs (employees and contractors) – approximately 65 percent of total expenses • Statutory Local Election Reimbursement payments to counties⁷ accounted for approximately 11.3 percent of the Department’s FY 2018-19 expenses • Office rent – approximately 3 percent of total expenses
Federal Elections Assistance Fund	<ul style="list-style-type: none"> • Expenses restricted by grant requirements • Expenses for the purpose of improving the administration of federal elections, including security training, software development, secure ballot drop boxes, etc.
Electronic Recording Technology Fund	<ul style="list-style-type: none"> • Grants approved by the Electronic Recording Technology Board (ERTB): <ul style="list-style-type: none"> ○ Grants to counties to establish, maintain, and improve electronic recording systems ○ Grants to counties to digitize, index, and secure aged documents
Local Elections Assistance Cash Fund	<ul style="list-style-type: none"> • Grants to counties to reimburse them for the purchase of voting equipment to meet the requirements of HB19-1278
Identity Theft Financial Fraud Fund	<ul style="list-style-type: none"> • Transfer to the Department of Public Safety pursuant to statute (§24-33.5-1707(2)(a)(I)(A) C.R.S.)

Table 9 The table highlights key cost drivers for each of the funds in which the Department operates in FY 2019-20.

With respect to the CDOS Cash Fund in particular, the Department expects expenses to increase significantly in the coming years. In recent years, the Department has seen contractor costs increase at a greater rate than employee costs. Contractors have cited their increasing operating costs as well as increased cost of living for their staff members. With the economy at full employment, the Department expects increased pressure on personal services costs, especially for positions in highly competitive fields like information technology and finance. The elections field is also increasingly complex, demanding a higher level of professional experience and expertise, leading to increased personal services costs. The Department of Personnel Administration (DPA) is responsible for an annual analysis of state employee wages vis-à-vis the

⁷ §1-5-505.5 C.R.S.

market and this analysis contains greater depth on wages for individual professional classifications.

In addition, the Department has also seen significant cost increases for much of the software that it uses. These increases are attributable to the high demand for, and rising salaries of, IT workers as well as structural changes in the industry. For example, many vendors have transitioned from perpetual licenses to a software as a service model with ongoing monthly or annual payments. At the same time, both the number of online services offered by the Department and the number of the Department's customers have increased, leading to increases in the cost of IT services linked to the volume of network traffic.

Slightly more than three percent of the expenditures from the CDOS Cash Fund cover office rent. The Department's current lease was executed in early calendar year 2014. As a result, the Department is currently paying rent at a rate that is estimated to be 50 percent below current market rates. In addition, with a growth in staff and evolving space needs, the Department plans to expand its office space under lease by approximately 20 percent. The Department anticipates a significant increase in lease expenses starting in FY 2020-21.

As illustrated in Table 9, statutory Local Election Reimbursement payments to counties accounted for approximately 11.3 percent of the Department's FY 2018-19 expenses. Colorado continues to be a leader in the percentage of eligible voters who are registered to vote. In its FY 2020-21 budget request, the Department has requested an additional \$135,000 in spending authority to communicate through a mailing with all known eligible, but unregistered voters. As the number of active registered voters continues to increase through inward migration and voter registration activity, the Department expects to need to increase the Local Election Reimbursement appropriation in years ahead.

- 17 How is the Department's caseload changing and how does it impact the Department's budget? Are there specific population changes, demographic changes, or service needs (e.g. aging population) that are different from general population growth?

Caseload changes have impacted the Department both from an Elections and Business and Licensing standpoint, as outlined below.

Elections

Colorado is a leader both in the percentage of eligible population registered to vote and voter turnout. These numbers have increased over time, as Colorado has continued to improve its election model. Pursuant to Section 1-5-505.5(3) C.R.S., the Department reimburses counties on a per active registered voter basis for each election in which there is a state ballot issue or question. As the number of active registered voters increases, so too does the cost of these reimbursement payments.

During the 2018 congressional election, Colorado's turnout among eligible voters was the second highest in the country at 63.0 percent. That was a substantial increase from Colorado's 54.7 percent turnout in the 2014 congressional election. This turnout increase created a commensurate

increase in county election expenses related to ballots mailed, processed, and tabulated, as well as increased need for judges at voter service and polling centers. The Department of State has observed an increased need for county oversight, including long hours and travel. Following the last legislative session, the Department has seen increased time and resources needed to review the county election plans in light of the additional requirements in HB19-1278.

The heightened awareness of potential risks to elections and election security has increased the need for focused attention by our technical and cybersecurity staff. The evolving threat landscape means that our office spends substantially more time compared to a decade ago on reviewing threat alerts from the FBI, CISA, and commercial sources, such as CrowdStrike, FireEye, and Cisco's Talos Intelligence Group. The Department strongly supports providing training, security briefings, and cybersecurity support and expertise to local election officials to reinforce the need for a culture of cybersecurity awareness and planning for incidents, cyber or otherwise.

Through a budget amendment submitted in January 2019, the Department has recently added a Campaign and Political Finance Enforcement Unit to the Elections Division. The Unit was created in response to SB 19-232 the "Fair Campaign Practices Act" and the newly enacted Colorado Revised Statute section 1-45.111.7, which requires the Elections Division to review and investigate potential campaign and political finance violations before, or in lieu of, filing a complaint with the Office of Administrative Courts (OAC). The four-person unit reviews third-party complaints and initiates Departmental complaints; drafts notices of initial reviews, motions to dismiss, and communications to respondents to the complaints; conducts investigations; and determines if the alleged violator complied with the law or if an OAC complaint should be filed.

Business and Licensing

Business filings and charitable solicitation registrations continue to increase. For example, registered businesses in good standing have increased from 480,230 at the end of the first calendar quarter of 2012 to 718,161 at the end of the first calendar quarter of 2019 (49.5 percent). Using a digital model has reduced the resource impact (the online systems have near-infinite capacity), but at the same time has altered the required skill sets of Business and Licensing Division personnel. These skillsets have migrated from analog, paper-based skills to digital, knowledge skills, which tend to be more expensive on a per-employee basis. The digital model is highly dependent upon information technology (IT) resources to provide a good customer experience. IT resources are also becoming difficult to hire and more expensive to retain.

It is not clear what the Department's customer demographic mix is, however, there has been a general increase in computer-literate users. Customers are now using a broader array of electronic devices and browsers to interact with the Department, which in turn has required the division to adjust online services to accommodate. For example, the Department now tests for usability across five of the most popular internet browsers. Demands for improved user experience online has greatly accelerated the pace of change in the division.

The addition of new programs, such as Durable Medical Equipment and Performing Rights Societies, has also contributed to an increase in the Business and Licensing Division's caseload in

recent years. These programs require business analysis, IT development, and ongoing program management. Program expansion has also contributed to caseload growth such as the Notary Program (Revised Uniform Law on Notarial Acts (RULONA) Codified), requiring IT development, customer support, and investigation resource increases.

In addition, the Business and Licensing Division has experienced an increasing number of requests for data from other state agencies and stakeholders. Recent examples include, MyBizColorado, a demographic information request from the Minority Business Office, and transaction information requests for business fraud investigations from the Colorado Bureau of Investigations (CBI) and the Department of Homeland Security (DHS). These data requests typically involve IT resources, program managers, and business analysts. In addition, such data requests often require ongoing resources for maintenance and updating.

- 18 Please provide an overview of the Department’s current and future strategies for the use of outward facing technology (e.g. websites, apps), the role of these technologies in the Department’s interactions with the public and other state agencies, the Department’s total spending on these efforts in FY 2018-19, and expected spending in FYs 2019-20 and 2020-21.

The Department has pursued a strategy of delivering services via online access for nearly two decades. For context, the Department processes nearly 80,000 filings in the business registrations program every month—it is the highest-volume filing area in the office. For calendar year 2019 to date, 99.9 percent of those filings have been submitted online via the Department’s website. Several program areas have achieved online filing rates of 100 percent, and filings are predominantly submitted online in most other programs of the Department. All of those filings are then available for searching and downloading, many as certified copies, on the Department’s website.

As a result, the Department’s Information Technology (IT) Division is wholly oriented to supporting these outward-facing technologies. All of the IT Division’s operational and software engineering work is aligned with this mission of delivering services online, and thus it is reasonable to allocate the entire Department’s technology services budget lines with this online service delivery model (see Table 10 below).

FY 2018-19 (actual)	FY 2019-20 (appropriated)	FY 2020-21 (requested)
\$8,126,509	\$9,589,728	\$9,199,483

Table 10 The table shows expenditure and appropriation data for the IT Division for FY 2018-19 through FY 2020-21 (requested).

The Department also leverages electronic means for other interactions with the public and other state agencies. As a few examples, the Department:

- Uploads filing data on a weekly or monthly basis to the state’s public data catalog at data.colorado.gov;

- Electronically receives and transmits official record data for voter registration purposes with the Department of Revenue, the Department of Corrections, the Department of Public Health and Environment, the Electronic Registration Information Center (ERIC), and the Voting Information Project;
- Uses the Google Translate app on two iPads at the front desk to assist foreign speaking customers. This enables to staff to serve customers in a wider array of languages and when English-Spanish bilingual staff are unavailable.
- Provides electronic downloads of data via the Department website in many program areas (e.g., campaign finance, charitable solicitation, post-election risk-limiting audits, lobbyist, notaries public); and,
- Houses the Business Intelligence Center and the Go Code Colorado civic apps and data competitions to highlight the wealth of free available data and to incentivize the creation of small businesses.

The Department is currently modernizing its systems and infrastructure by incorporating web services and Application Programming Interfaces (API) into its standard software systems. This will provide further opportunities in the future for the public and other state agencies to consume and submit official records via electronic methods.

- 19 There are many ways in which the Department may interact with internal or external customers, including the public and other departments. How is the Department gathering feedback and evaluating customer experience? Please address all interactions, e.g. technology, in-person, call centers, as well as total spending on these efforts in FY 2018-19 and expected spending in FYs 2019-20 and 2020-21.

The Colorado public connects with the Elections Division in several ways, including by using the campaign finance system (TRACER), using the online voter registration system (OLVR), using the online lobbyist filing system, seeking guidance on compliance with campaign finance and lobbyist regulations, and by contacting the call center. The Department routinely tests the TRACER, OLVR, and Lobbyist systems to capture user experience. The Department also reached out to TRACER and Lobbyist system filers through user groups to get their feedback on how the systems operate. The Elections Division takes public calls and tracks issues as they generate public notice to prepare for increased call volume. Fortunately, the Department has seen a general reduction in the number of elections-related calls over the past several years as Colorado has moved to a more voter-friendly model.

The Business and Licensing Division uses surveys, stakeholder groups, customer support interaction (email, phone, in-person at the front desk, and voice messaging), social media, and data analysis to evaluate the customer experience. Examples of these activities include:

- Ongoing Website Business Survey
- Weekly Notary, Charities, and Bingo-Raffle filing success rate analysis
- Bingo-Raffle Online vs. Paper reporting analysis
- Call center call data analysis

- Real-time call quality monitoring
- Call center support

Costs associated with these activities are minimal and are absorbed by the divisions. The Department does not break this data out by program.

- 20 Please highlight the long-term financial challenges of fulfilling the mission of the Department with particular attention to any scenarios identified in the Department's Long Range Financial Plan involving an economic downturn, department-specific contingencies, emerging trends, or major anticipated expenses (Subsections 3-6 of Section 4 of the Long Range Financial Plan submitted pursuant to H.B. 18-1430).

The vast majority of the Department's financial activity is in the Department of State Cash Fund (CDOS Cash Fund). Business and other filing fees account for virtually all of the revenue in this fund and the varied nature of the Department's filings mitigate the impact of recession on the CDOS Cash Fund revenue. During the Great Recession (December 2007 – June 2009), CDOS Cash Fund revenue actually increased.

FY 2018-19 revenue in the CDOS Cash Fund increased by almost five percent relative to FY 2017-18. The Department expects this trend to continue and for CDOS Cash Fund revenue to grow by 4.48 percent to \$26.10 million in FY 2020-21. Actual and projected revenue increases are driven by an increase in actual and projected business filing volumes. This is consistent with most economic forecasts – including the Office of State Planning and Budgeting's Colorado Economic and Fiscal Outlook from September 2019 and the Quarterly Business and Economic Indicators Report for the Second Quarter of 2019 produced by the Department of State in collaboration with the Leeds School of Business at the University of Colorado – which predict continued, but slowing economic growth in the State of Colorado.

Projecting revenue in the medium-term has a greater margin for error, but the Department expects that revenue will continue to grow at a slow and steady pace in the coming years. As described above, the Department is responsible for a wide variety of filings, so in the past, recessions have had a limited impact on revenue in the CDOS Cash Fund. Figure 1 below shows actual and projected revenue from FY 2005-06 through FY 2023-24.

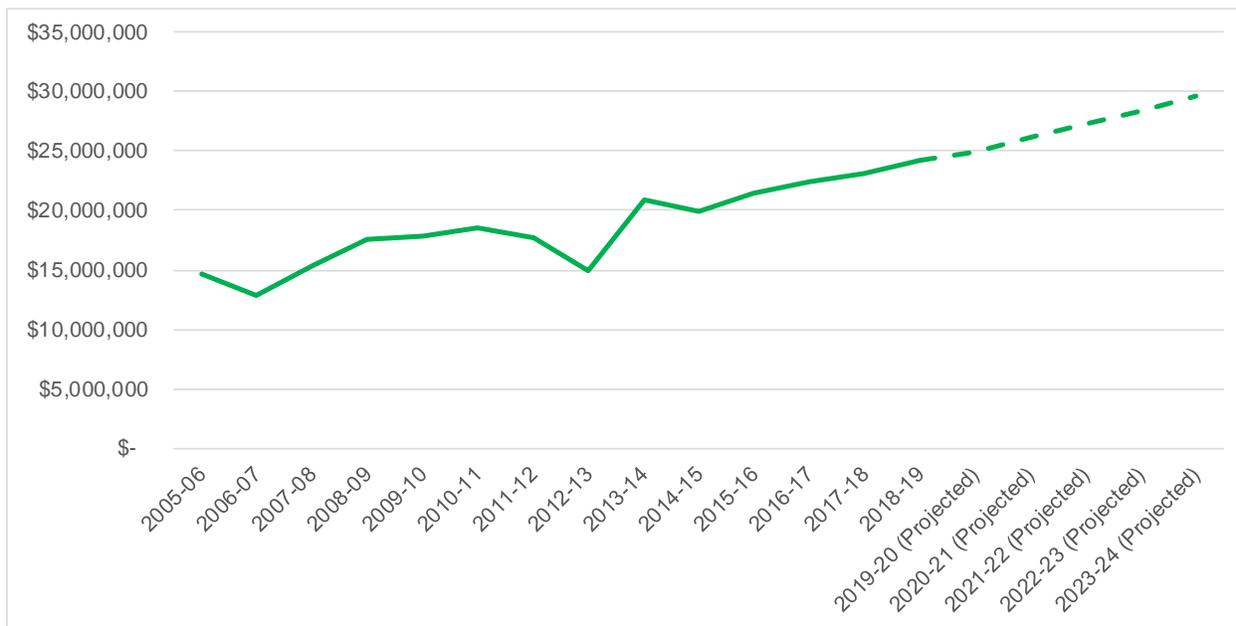


Figure 1 *The chart shows actual revenue in all Department cash funds from FY 2005-06 through FY 2018-19. For FY 2019-20 through FY 2023-24, the chart shows projected revenue.*

General economic activity drives the number of filings with county clerks and recorders, so a recession or slowdown would have an adverse impact on revenue in the Electronic Recording Technology Fund (ERTF). Revenue in the ERTF, aside from interest, is entirely from surcharges on documents presented to a county clerk and recorder for filing. Similarly, a recession would lead to reduced revenue in the Colorado Identity Theft and Financial Fraud Cash Fund which is derived from a surcharge on Uniform Commercial Code (UCC) filings.

With regard to costs, the Department expects expenses to continue to increase significantly in the coming years. In recent years, the Department has seen contractor costs increase at a greater rate than employee costs. Contractors have cited their increasing operating costs as well as increased cost of living for their staff members. With the economy at full employment, the Department expects increased pressure on personal services costs, especially for positions in highly competitive fields like information technology and finance. The elections field is also increasingly complex, demanding a higher level of professional experience and expertise, leading to increased personal services costs.

Slightly more than three percent of the expenditures from the CDOS Cash Fund cover office rent. The Department’s current lease was executed in early calendar year 2014. As a result, the Department is currently paying rent at a rate that is estimated to be 50 percent below current

market rates. In addition, with a growth in staff and evolving space needs, the Department plans to expand its office space under lease by approximately 20 percent. The Department anticipates a significant increase in lease expenses starting in FY 2020-21. As a new lease is still under negotiations, the Department plans to submit a budget amendment in January to address this issue.

A potential impact factor in the long-term is a change to the Department's source of funding. The National Federation of Independent Business (NFIB) filed a lawsuit under the Taxpayer's Bill of Rights (TABOR) in 2014 to challenge how Colorado pays for elections. The Colorado Supreme Court recently issued a narrow decision in the case that allows the Department to maintain its current model for paying for elections. See *Grismold v. NFIB, 2019 CO 79 (Colo. Sept. 23, 2019)*. However, the decision did not rule on the ultimate issue – whether the Department's fees constitute taxes that are subject to TABOR's voter approval requirements.

- 21 In some cases, the roles and duties of existing FTE may have changed over time. For all FY 2020-21 budget requests that include an increase in FTE:

The Department has not requested an increase in FTE in its FY 2020-21 budget request. Therefore, this question does not apply.

- a. Specify whether existing staff will be trained to assume these roles or these duties, and if not, why;
- b. Specify why additional FTE are necessary; and
- c. Describe the evaluation process you used to determine the number of FTE requested.

- 22 Please describe the impact of Colorado's low unemployment rate on the Department's efforts to recruit and retain employees.

The Department has seen a decrease in the total number of applications submitted for positions that are highly specialized. For example, Elections Division and IT Division positions do not receive the same number of applicants as in years past. Additionally, job announcements are often kept open longer to obtain more applicants, which extends the hiring timeline.

Candidates for employment have been more likely to negotiate their salary, sometimes requesting a salary level that is not allowed within the state system. Staff that have made the decision to leave the Department have been more likely to indicate that they are leaving the Department because they could make significantly more money in the private sector.

23 **NOTE: An example template for providing data for this question will be provided by the JBC Staff.**

State revenues are projected to exceed the TABOR limit in each of the next two fiscal years. Thus, increases in cash fund revenues that are subject to TABOR will require an equivalent amount of General Fund for taxpayer refunds. Please:

- a. List each source of non-tax revenue (e.g., fees, fines, parking revenue, etc.) collected by your department that is subject to TABOR and that exceeds \$100,000 annually. Describe the nature of the revenue, what drives the amount collected each year, and the associated fund where these revenues are deposited.
- b. For each source, list actual revenues collected in FY 2018-19, and projected revenue collections for FY 2019-20 and FY 2020-21.

The Department has provided the data requested in parts a and b in Table 11 below using the template provided by the Joint Budget Committee.

Non-Tax Revenues Collected by Department That Are Subject to TABOR (excluding sources that amount to less than \$100,000/year)				
Revenue Source	Associated Cash Fund	Revenues Collected Annually		
		FY 2018-19 Actual	FY 2019-20 Projection	FY 2020-21 Projection
4100 - Other Taxes	Department of State Cash Fund	\$ 852,470	\$ 888,000	\$ 925,000
4200 - Other Business Licenses and Permits: Durable Medical Equipment (DME) application and renewal fees	Department of State Cash Fund	\$ 206,500	\$ 215,000	\$ 225,000
4206 - Business Registrations: Fees from business registrations, trade names, trademarks.	Department of State Cash Fund	\$ 22,166,827	\$ 23,096,000	\$ 24,130,000
4207 - Professional and Occupational Licenses: Fees from Bingo manufacturer's license, supplier's license, bingo hall owners, etc.	Department of State Cash Fund	\$ 164,832	\$ 172,000	\$ 180,000
4400 - Service Charges from External Sources: Charitable organization registrations and renewals, notary applications, lobbyist fines, UCC filings, etc.	Department of State Cash Fund	\$ 1,094,725	\$ 1,141,000	\$ 1,192,000
5200 - Other Charges for Services: statutory surcharge on UCC filings	Colorado Identify Theft and Financial Fraud Cash Fund	\$ 403,276	\$ 425,000	\$ 444,000
5208 - Credit Card Fees - Nonexempt	Department of State Cash Fund	\$ (601,221)	\$ (626,000)	\$ (652,000)
8300 - Miscellaneous Revenues - Operating Nonexempt: UCC software licensing fee	Department of State Cash Fund	\$ 100,000	\$ -	\$ -
TOTALS		\$ 24,387,408	\$ 25,311,000	\$ 26,444,000

Table 11 The shows data by revenue source code, as recorded in the state financial system, for each TABOR non-exempt revenue source with greater than \$100,000 in revenue.

- c. List each decision item that your department has submitted that, if approved, would increase revenues subject to TABOR collected in FY 2020-21.

The Department's decision item will not have a material impact on revenues collected subject to TABOR in FY 2020-21.

24 Please describe the Department's current practice regarding employee parking and other transportation options (i.e. EcoPass). Please address the following:

a. Does the Department have adequate parking for all employees at all locations?

The Department has a single location, in a downtown Denver office building. Parking is extremely limited and costly in the building. State employee parking through the Department of Personnel Administration's (DPA) Employee Parking Program has a waiting list on which employees have remained for years. As a result, the Department encourages employees to use public transportation and has participated in the Regional Transportation District's (RTD) EcoPass program for many years.

b. If parking is limited, how are available spaces allocated?

The Department has five spaces in the building garage: three of these spaces are allocated to its permanently-assigned State Fleet vehicles and the remaining two are assigned to members of the Executive Team.

c. If free parking is not available, how is parking paid for, and who pays (employee or Department)? (e.g. stipends, subsidized parking, eco passes)

The Department directly (monthly billing) or indirectly (included by lease terms) pays for the five spaces discussed in part b. The Department does not subsidize the cost of parking for other employees. Four employees use the State Employee Parking Program and have the cost withheld from their paychecks. The Department does not have data on other employees who drive and use private parking lots or garages.

The Department subsidizes the cost of EcoPasses for employees who participate in this program. It also subsidizes the cost of the Colorado Department of Transportation's Bustang service for employees who elect to use the service and who live along the North Line (Denver - Fort Collins) or South Line (Denver - Colorado Springs) routes. Currently 110 employees participate in the EcoPass program and two use the Bustang service.

d. If employees pay fees for parking, where is the revenue credited and how is it spent, and is it subject to TABOR?

The Department does not collect revenue from employees for parking. Employees who use the State Employee Parking Program through DPA have funds withheld from their paycheck. The Department does not know how DPA accounts for this revenue.

e. Do parking and/or transportation benefits factor into Department compensation and/or retention efforts?

Yes, many prospective employees are concerned about the economic and time costs of commuting downtown. The Department touts the availability of subsidized EcoPasses in its offer letters to employees.

- 25 Please identify all continuously appropriated funds within the Department's purview with a fund balance or annual revenue of \$5.0 million or more. Please indicate if these funds are reflected in the FY 2019-20 Long Bill.

The Department's federal funding under the Help America Vote Act (HAVA) Program is continuously appropriated and exceeds \$5.0 million. This funding is recorded in the Federal Elections Assistance Fund (Section 1-1.5-106(1)(a) C.R.S.). This funding includes the HAVA Election Security Grant that the Department received in March of 2018. The continuous appropriation of these funds enables the Department to move quickly to address election-related priorities. The HAVA funds are shown as informational item under the Elections Division in the FY 2019-20 Long Bill (SB 19-207).