

DEPARTMENT OF STATE  
FY 2021-22 JOINT BUDGET COMMITTEE HEARING  
AGENDA

**Monday, January 25, 2021 (Rescheduled from January 6, 2021)**  
**2:30 pm – 3:30 pm**

**1:30-1:45      INTRODUCTIONS AND OPENING COMMENTS**

Presenter: Jena Griswold, Secretary of State

**1:45-2:00      COMMON QUESTIONS**

Main Presenters:

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

Supporting Presenters:

- Ian Rayder, Deputy Secretary of State
- Kathryn Mikeworth, Administration Division Director
- Trevor Timmons, Chief Information Officer
- Judd Choate, Elections Division Director
- Mike Hardin, Business & Licensing Division Director

Topics:

- Implementation of FY 2020-21 HLD Decrease: Page 1, Question 1 in the packet
- COVID-19 Changes: Pages 1-2, Question 2 in the packet

**2:00-2:15      INFORMATION TECHNOLOGY SERVICES**

Main Presenters:

- Jena Griswold, Secretary of State
- Trevor Timmons, Chief Information Officer

Supporting Presenters:

- Ian Rayder, Deputy Secretary of State
- Judd Choate, Elections Division Director
- Brad Lang, Controller & Budget Director

Topics:

- Election Security: Pages 3-4, Questions 3-5 in the packet
- IT Projects: Pages 4-5, Question 6 in the packet

**2:15-2:30      SPENDING UPDATES AND USAGE**

Main Presenters:

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

Supporting Presenters:

- Ian Rayder, Deputy Secretary of State
- Melissa Kessler, Legal & Policy Director

Topics:

- Prior Years' Spending: Page 6, Questions 7-8 in the packet
- Next Year's Spending: Page 7, Question 9 in the packet

DEPARTMENT OF STATE  
FY 2021-22 JOINT BUDGET COMMITTEE HEARING AGENDA

Wednesday, January 6, 2021

1:30 pm – 2:30 pm

COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

- 1 Please describe the Department's actions to implement the Health, Life, and Dental decrease in lieu of a 5.0 percent General Fund salary base reduction. Please include dollar and percentage share data on planned "allocations" of the decrease to all divisions and programs within the Department. Please describe the use of vacancy savings, delayed hiring, and the implementation of one-time or ongoing operating savings. Please describe the urgency of the Department's need to engage in a furlough in FY 2020-21 due to the inability to achieve savings in other ways.

The Department of State does not have a General Fund appropriation in FY 2020-21 and was not subject to the Health, Life, and Dental reduction in FY 2020-21 that is described in the question. The Department has not requested any money from the General Fund in FY 2021-22.

Furloughing employees is a budget balancing tool of last resort. Ultimately, furloughs adversely impact the level of service we provide to our customers and impose hardships on our employees, particularly those earning lower salary levels. We are fortunate that we have not seen a decrease in revenues in FY 2020-21 rendering it unnecessary for us to implement a furlough of employees in the current fiscal year.

- 2 Please describe how the changes implemented in response to the COVID-19 pandemic have changed the nature of the Department's work. Please address programmatic, budgetary, and office space impacts

Our employees have risen to the challenges of the COVID-19 pandemic and worked tirelessly to ensure that we continue to administer safe, secure, and accurate elections and to provide exceptional service to all Coloradans. The vast majority of our employees will continue to operate remotely until public health conditions allow them to safely return to the office. Our story of the pandemic is one of triumphing over adversity. I want to acknowledge a few of the efforts and accomplishments of each of our divisions.

The rapid onset of the pandemic in March forced our IT Division and Administration Division staff to work quickly to prepare and equip our staff for an almost entirely remote workforce. Their success in this effort enabled us to continue our operations with minimal disruption. The IT Division also worked closely with the Election Division to ensure the security of three elections, including two that were conducted after the first COVID-19 case was confirmed in Colorado.

Our Elections Division, already tasked with overseeing three elections in calendar year 2020, adapted rules, procedures, and workloads to the pandemic restrictions. The division worked with our Finance Unit to execute over 100 grants to counties, many of which provided financial support to counties to address the unique challenges of successfully conducting elections with broad public participation in the midst of a global pandemic.

Our Business & Licensing Division has adapted seamlessly to the challenges of servicing customers under pandemic conditions with all division programs remaining extremely responsive to customer needs. Our Customer Service Center answers hundreds of calls daily, processes incoming mail, and completes a high volume of apostilles. Although most of these services are done remotely, we do have a small number of staff who rotate working in the office weekly. Additionally, our notary program worked tirelessly to implement emergency rules to allow for remote notarizations in Colorado. This effort provides much needed flexibility for financial transactions to be completed timely and safely.

The Department was in the process of planning a move from one space to another when the pandemic hit and our Administration Division has adapted construction plans to accommodate changing needs. The new workspace incorporates updates that will be beneficial for transitioning staff back to the workplace, such as cubicle walls that are 66 inches in height and a glass barrier between staff and customers in the main reception area.

Budgetarily, the Department has seen cost savings in FY 2019-20 and FY 2020-21 as a result of reduced employee travel, cancelled offsite training opportunities, reduced printing costs, etc. The pandemic has also delayed the Department's move into new office space, which has resulted in unexpected savings in leased space costs as the new lease rates do not take effect until the initial phase of the move is complete. Many other costs, such as software licensing expenses, have remained unchanged by the pandemic. At the same time, the pandemic's impact on the overall labor market has reduced vacancy savings department-wide compared to past years, contributing to an increase in personal services costs.

# INFORMATION TECHNOLOGY SERVICES

## ELECTION SECURITY

- 3 *[Sen. Rankin]* We haven't heard about the SCORE system in a few years, can you provide an update on its current status – including open tickets or requests for improvements that have been requested by counties?

The SCORE system performed well in supporting the work of the county clerks and recorders, their staffs, county election workers, and department staff during the three statewide elections in 2020.

The Department works closely with the SCORE User Panel, or “SUP,” to identify modifications needed either due to legislative changes, opportunities for efficiency gains, or technical improvements. The SUP consists of county clerks and recorders, election directors, and other county expert staff that provide guidance to our tech team. Two of the SCORE projects currently underway are improving user management functionality for county administrators, and replacing the current document scanning system of SCORE. Both projects have been prioritized by the counties as needed enhancements for SCORE. We expect both projects will be complete by the end of the second calendar quarter of 2021. Other work underway on the SCORE system includes modernizing this processing to API<sup>1</sup>-based routines, to more efficiently manage critical activities.

Even as we prepare a Request for Information (RFI) to evaluate commercial products that might be procured as a replacement for SCORE, we still need to support counties with the current system, likely at least through the 2022 election cycle.

- 4 *[Sen. Rankin]* Can you provide an update on the election auditing and validation process?

Colorado continues to employ post-election risk-limiting audits, both of a statewide contest and a countywide contest after each state or federal election. Colorado's risk-limiting audit is easily the nation's gold standard. Ballots are randomly selected based on the number of votes cast in a race and the size of margin, then those specific ballots are hand-tabulated by a bipartisan team of election judges and compared to the way that the scanning software tabulated each particular ballot.

In the seven Colorado elections conducted since Colorado adopted risk-limiting audits, there has not been any instance in which the scanning software or scanning equipment errored in tabulation.

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<sup>1</sup> Application Programming Interface or API is defined as “A set of functions and procedures allowing the creation of applications that access the features or data of an operating system, application, or other service.” Definition from Oxford via <https://www.lexico.com/en/definition/api>.

- 5 *[Sen. Rankin]* How does the Department plan to use the HAVA grant federal funds and requested state match to improve election security?

Several major improvements have been made to voter registration and election management outside of the core SCORE system, such as statewide ballot tracking and providing an improved system for signature cures.

The Department plans continued investment in improving the cybersecurity of elections-related systems at both the state and local level. With the constantly evolving nature of threats, this will be an area of focus for the foreseeable future.

The Department has also begun a procurement process for acquiring a new voter registration database and election management program to replace SCORE. A working group has been created, including over a dozen county election officials – county clerks, county election directors, and county IT professionals. A Request for Information (RFI) will be issued to determine the universe of possible vendors.

#### *IT PROJECTS*

- 6 *[Rep. Kennedy]* In the context of the conversation had last year about new IT projects and the delays that can result from newly added projects, can you please detail the IT projects that are currently underway or proposed as well as the expected time frame for completion of those projects? Also, can you please describe the actions that the General Assembly can take to authorize new IT projects?

The Department is currently engaged in two major projects in addition to several minor projects:

- A modernization of the filing and searching system for businesses that register with the Department under Title 7. Fees for filings by the hundreds of thousands of corporations, LLCs, and other businesses in Colorado in our business registrations program provide the majority of the Department's revenue. The modernization of this system to a more modern architecture will ensure that these services will continue to remain secure and process the hundreds of thousands of annual filing transactions submitted online. The first set of filings that will go "live" are LLC filings, which is the most used form of business entity in Colorado. We will be able to apply the same design models for other business types, and believe that over the next year we will be far down the path of providing a new and improved system to all Colorado businesses. The current system is 15 years old; and,
- As the Department indicated in the response to Question #3, the other major project is improving and enhancing the statewide voter registration and election management system which is known as SCORE. The Department works closely with the SUP to identify modifications needed either due to legislative changes, opportunities for efficiency gains, or technical improvements. The SUP consists of county clerks and recorders, election directors, and other county expert staff that provide guidance to our tech team. Two of the SCORE projects currently underway are improving user management functionality for county administrators, and replacing the current document scanning system of SCORE. Both projects have been prioritized by the counties as needed enhancements for SCORE. We expect both projects will be complete by the end of the second calendar quarter of 2021. Even as we prepare an RFI to evaluate commercial products that might be procured as a replacement for SCORE, we still need to support counties with the current system, probably at least through the 2022 election cycle.

The COVID-19 pandemic also required the Department to engage in unanticipated project work. As is true of nearly all office environments, we rapidly moved our workforce to near-total remote operations. Our tech teams have continued to evolve and mature in supporting remote workers while maintaining effectiveness. The Department utilized CARES Act funding for upgrades to the SCORE database to allow counties to conduct election worker training remotely instead of in the traditional large classroom settings while still maintaining a strong cybersecurity posture. We also worked with a number of stakeholders to assess and plan for the possibility of electronic signature gathering for initiatives, although that work was ultimately not implemented due to judicial action.

In addition to the aforementioned major projects, the Department routinely devotes resources to other projects in fulfilling our statutory duties and keeping our systems updated and secure. For example, this fall our software teams designed, developed, and tested a system pursuant to legislation to enable the approval of remote notary service providers and to continue to allow notaries public to provide remote notary services. This effort builds on the emergency remote notary authorization provided under an Executive Order and will bring this program into compliance with the law and make it more sustainable in the long term. Other examples of projects completed this year include the implementation of statewide ballot tracking and statewide signature cure systems, and the continual and ever-evolving aspects of reviewing and updating our cybersecurity posture in response to new and emerging threats.

The business system and SCORE upgrades are major upgrades. We are also exploring the timeline and feasibility of upgrading TRACER and the lobbyist registry. The Secretary of State's Office IT Division is smaller but nimble. Additional projects often delay projects currently underway due to bandwidth issues. The Department follows the steps set forth by the Legislative Council to estimate the fiscal and operational impact of all proposed legislation. Any concern on the part of the Department as to the impact of new legislation would be provided through that process. Absent more time, money, and people, it can be challenging to keep timelines for current necessary projects when new projects are added on top of current duties.

## SPENDING UPDATES AND USAGE

### PRIOR YEARS' SPENDING

- 7 [Sen. Moreno] Can you please provide a more detailed breakdown explaining the increase in the Legal Services line item request?

The increase in the Legal Services line item request is attributable to two changes in the need for legal services within the Department.

First, the COVID-19 pandemic created unanticipated legal costs. For example, because the pandemic began during the candidate and ballot initiative petition period, the Department consulted heavily with its attorneys to assess the appropriate form of relief for individuals trying to secure petition signatures. The Attorney General's Office assisted the Department in assessing legal options, drafting Executive Orders to propose to the Governor's Office, reviewing rulemaking to support the petition process, and defending the actions of the Department in court when challenged. Petitioning is one example of the myriad of legal issues that arose in the pandemic, including the need for remote notarization services, changes to the administration of elections, and others.

Second, *Holland v. Williams (2018)* dramatically altered the need for legal services within the Department. Per the requirements of implementing legislation, a Campaign Finance Enforcement team, a section within the Department that investigates and enforces campaign finance rules, was created. This section required attorney support to establish and implement the program and requires ongoing legal support in assessing cases. This legislation also established the Deputy Secretary of State or appointee as the final decisionmaker on cases brought by the Campaign Finance Enforcement team. Because an ethical wall exists between the two entities, separate legal support is required by the Deputy Secretary and his team in making final decisions on enforcement cases.

- 8 [Sen. Moreno] In a previous budget year, the Department used grant funding to conduct outreach to unregistered voters. Can you please provide an update with the results and implications of those efforts?

With support from this committee and the General Assembly, the Department used cash funds to send postcards to 677,000 Coloradans who, based on their interaction with a DMV, appeared to be potentially eligible, but unregistered prior to the 2020 General Election. The data used to create this list came from the Electronic Registration and Information Center (ERIC). ERIC is also using registration data to determine the effectiveness of that mailing – comparing Colorado to each state that conducted a single mailing prior to the election. The Department expects to have the comparison data soon.

NEXT YEAR'S SPENDING

- 9 [Sen. Moreno] Can you please give a more precise explanation of the consequences of not funding the state matching funds? If spending authority is granted for only one year as opposed to three or four, will the Department still have to return the funds plus interest? How would this impact the Department's plans for spending the matching funds?

The terms of the 2020 Help America Vote Act (HAVA) Election Security Grant require that the Department secure legal spending authority for the entire amount of the state matching funds (\$1,426,773) by December 21, 2021. Should the Department fail to have spending authority in place for the full amount of the state match, the entire amount of the grant, \$7,133,864, together with all interest accrued on these funds, must be returned to the federal government. Returning these funds would significantly hinder the Department's ability to upgrade the voter registration system and thereby increase cyber vulnerabilities.

To optimally manage its cash flow and cash fund balance, the Department requests that automatic carryforward authority is granted on the matching funds through Fiscal Year 2024-25. This automatic carryforward authority would enable the Department to manage its cash flow by spreading the costs of the matching funds across three and a half fiscal years while complying with the grant's requirement that matching funds are expended by December 2024.

If the matching funds were instead appropriated for a single year, it would force the Department to expend the entire \$1,426,773 from its cash fund in a single year to meet the terms of the grant in order to avoid returning the funds. This would unnecessarily deplete the Department's cash fund balance at a time of economic uncertainty.

DEPARTMENT OF STATE  
FY 2021-22 JOINT BUDGET COMMITTEE HEARING  
**WRITTEN RESPONSES ONLY**

VOTING

*UNAFFILIATED PARTICIPATION*

1. *[Sen. Moreno]* Please provide information on the rate of participation for unaffiliated voters in party primaries.

Colorado registered unaffiliated voters have choices when voting in a party primary election: (i) they may select a preference to receive a specific party's ballot or (ii) they will receive a packet containing the ballots of all participating major parties. Unaffiliated voters may select a preference at [www.govotecolorado.gov](http://www.govotecolorado.gov) or on any paper registration form. In the event that an unaffiliated voter seeks to vote in-person during a presidential primary election, that voter is given the choice of voting a Democratic or Republican ballot. For a state primary, an unaffiliated voter seeking to vote in-person is given the choice of a Democratic, Republican, or minor party ballot (if a minor party has a contested state or federal race).

In the 2020 presidential primary, a total of 81,859 unaffiliated voters employed the preference option. More specifically, 55,165 unaffiliated voters requested a Democratic ballot and 26,946 unaffiliated voters requested a Republican ballot. For the June 30<sup>th</sup> state primary, 11,309 unaffiliated voters requested a party ballot – 8,207 Democratic ballots, 2,796 Republican ballots and 306 Libertarian ballots – before the election.

In these two primary elections, many more unaffiliated voters did not preference a particular ballot and instead received a “packet” with both a Democratic and Republican ballot or they voted in-person where the unaffiliated voter was given the choice of ballots. In the March 3<sup>rd</sup> presidential primary, 1,296,598 unaffiliated voters received a packet with 597,319 (43.5% of active unaffiliated voters) voting in the election. Breaking those numbers down further, 443,961 (74.3%) voted a Democratic ballot. The remainder voted a Republican ballot. In the June 30<sup>th</sup> state primary, 1,384,082 unaffiliated voters received a packet, with 521,462 (37.4% of active unaffiliated voters) voting in that election. Of all unaffiliated voters in the June primary, 383,364 (73.5%) voted a Democratic ballot. Republican ballots account for 26.4% of unaffiliated voters. An additional 182 unaffiliated voters (less than 0.01%) voted a Libertarian Party ballot

MAIL-IN VOTING

2. *[Sen. Rankin]* Please provide statistics regarding mail-in voting in the November 2020 presidential election and how that compares to the rates in previous elections.

Colorado turnout for the 2020 General Election was the second-highest in the nation. The vast majority of those voters cast a mail ballot. Exactly 94% of votes cast in the 2020 General Election were mail ballots. As a point of comparison, 93% of votes cast in 2016 were mail ballots.

**COMMON QUESTIONS: PLEASE RETAIN THE NUMBERING IN ORDER TO MAINTAIN CONSISTENT LABELING FOR COMMON QUESTIONS ACROSS DEPARTMENTS.**

- 1 Provide a list of any legislation with a fiscal impact that the Department has: (a) not implemented, (b) partially implemented, or (c) missed statutory deadlines. Explain why the Department has not implemented, has only partially implemented, or has missed deadlines for 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

None.

- b. Partially Implemented

The Elections Division has partially implemented SB 19-235 (Automatic Voter Registration (AVR)).

The portion of the bill that requires AVR through the Department of Motor Vehicles (DMV) driver's license offices was fully implemented ahead of the July 1, 2020 deadline. The other provisions of the bill, including updates to data reporting from state voter registration agencies, changes to the ballot affirmation, and new instructions for signature verification, have been implemented.

The bill also requires AVR through Colorado Department of Health Care Policy and Financing (HCPF) transactions, subject to compliance with all applicable federal laws and regulations, as well as through transactions at other state voter registration agencies when feasible.

Under the current presidential administration, CMS has only allowed Medicaid and Medicare information to be shared or used for purposes directly connected to Medicaid (42 CRF 431.300) and have narrowly read these provisions preventing HCPF from using information derived from Medicare or Medicaid for voter registration (AVR) up to this point.

Additionally, under the bill "at the earliest practicable time," the Office of Information Technology (OIT) needs to assess which other state agencies collect sufficient information to allow for AVR and provide a list of its finding to the Secretary of State. The Department can then develop SCORE, enter into contracts with the agencies, and implement AVR. OIT has not yet provide the Secretary with that list.

c. Missed Statutory Deadlines

The Department has not missed any statutory deadlines.

- 2 Does the Department have any HIGH PRIORITY OUTSTANDING recommendations with a fiscal impact identified in the Office of the State Auditor's "Annual Report: Status of Outstanding Audit Recommendations"? What is the Department doing to resolve these HIGH PRIORITY OUTSTANDING recommendations? Please indicate where in the Department's budget request actions taken towards resolving HIGH PRIORITY OUTSTANDING recommendations can be found.

The 2020 report can be found at this link:

[http://leg.colorado.gov/sites/default/files/documents/audits/2056s\\_2020\\_annual\\_report\\_status\\_of\\_audit\\_recommendations.pdf](http://leg.colorado.gov/sites/default/files/documents/audits/2056s_2020_annual_report_status_of_audit_recommendations.pdf).

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

- 3 For the FY 2020-21 hearing process, the Department was asked to respond to the following questions related to public awareness campaigns.

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?

Please provide an update to your response from last year, including any changes to existing campaigns and/or the addition or discontinuation of campaigns.

Yes, the Department has spent money on public awareness initiatives. Since the FY 2020-21 budget request process, the Department ran three paid public awareness initiatives:

1. Presidential and Statewide Primary Participation Education, including for Unaffiliated voter participation and Safely Voting in the Statewide Primary Amidst COVID-19
2. Safely Voting in the Statewide Primary and General Election Amidst COVID-19
3. Countering Election-related Foreign Misinformation and Disinformation.

1. Presidential and Statewide Primary Participation Education

Colorado had its first presidential primary in 20 years and the first ever presidential primary in which unaffiliated voters could participate. The 2020 primaries were also just the second election cycle in which unaffiliated voters could participate in statewide primaries. In addition to unaffiliated voter participation, the statewide primary also took place during the pandemic.

Given these changes, the goal of this initiative was to maximize voter participation, minimize voter confusion, and reduce the spread of COVID-19.

This public awareness initiative was delivered to every demographic type of voter throughout Colorado by television and social media.

Cost: The General Assembly approved \$900,000 in cash fund spending authority for this initiative as part of the Department's FY 2019-20 budget request. For the Statewide Primary, the budget was supplemented by \$85,072 in supplemental federal Help America Vote Act (HAVA) funds provided by the CARES Act.

- a. Effectiveness: By proactively informing voters of the two 2020 primaries and primary procedures, the Department successfully maximized voter participation and minimized voter confusion. Both the Presidential Primary and Statewide Primary had the highest active voter turnout rates for a presidential primary and statewide primary.
  - i. The Department will provide data on per audience-member-reached cost, ballot spoilage rate by county and statewide, and turnout rates of unaffiliated voters by county along with 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 by February 1st, 2021 as requested in a June 11th, 2020 letter.
- b. Other states as well as the Federal Elections Commission were consulted with on messaging related to COVID-19.

## 2. Safely Voting in the General Election Amidst COVID-19

- a. The goal of this public awareness initiative was to provide voters with information about voting safely amidst the COVID-19 including returning ballots by mail, by secure ballot drop box, or voting safely in person.

This public awareness initiative was delivered to every demographic type of voter throughout Colorado by television and social media.

- b. Cost: This initiative had a total budget of approximately \$2.5 million paid for using a combination of supplemental federal HAVA funds provided by the CARES Act, which were received on April 24, 2020, and state matching funds associated with that grant. These funds had to be expended to help mitigate the spread of COVID-19 in federal elections.
- c. Effectiveness: By informing voters of their options to vote safely amidst the COVID-19 pandemic, Colorado achieved the second highest voter turnout in the nation in the 2020 General Election with 76.4% of eligible voters participating and 86.87% of active registered voters participating.
- d. Other states as well as the Federal Elections Commission were consulted with on messaging related to COVID-19.

## 3. Countering Election-related Foreign Misinformation and Disinformation

- a. Throughout 2020, the U.S. Department of Homeland Security as well as other federal and state intelligence agencies warned of the high risk of foreign adversaries spreading disinformation designed to confuse voters and undermine confidence in the election process, especially in the midst of a global pandemic. The goal of this public awareness initiative was to counter these threats by helping make Coloradans aware of the threat and encouraging them to consult trusted sources of election information, specifically GoVoteColorado.gov. This public awareness initiative was delivered to Coloradans of every demographic type throughout the state via social media as well as Paid Google Search

The Department also created a webpage specifically on the threat from foreign adversaries, highlighting intelligence warnings from the President’s Administration and providing ways Coloradans could help mitigate the threat.

- b. Cost: The campaign had a budget of approximately \$352,000 in paid media which was funded by a combination of federal supplemental HAVA funds provided by the CARES Act and the state match associated with this grant.
- c. Effectiveness: The campaign both educated voters on the threat of foreign interference and how they can combat it. Colorado achieved the second highest voter turnout in the nation in the 2020 General Election with 76.4% of eligible voters participating and 86.87% of active, registered voters participating.
- d. The U.S. Department of Homeland Security was consulted on this initiative.

The Department did not expend funds for earned media.

4 Please identify how many rules you have promulgated in the past year (FY 2019-20). 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 year (FY 2019-20)?

The Department adopted multiple new or amended permanent rules between July 1, 2019 and June 30, 2020 as shown in Table 1 below. The table does not include the 10 temporary rules adopted during this time frame

Tracking Number	CCR Number	CCR Title	Adopted Date	Effective Date
<a href="#">2019-00239</a>	8 CCR 1505-6	Rules concerning campaign and political finance	8/2/2019	9/30/2019
<a href="#">2019-00306</a>	8 CCR 1505-1	Elections	8/23/2019	10/15/2019
<a href="#">2019-00618</a>	8 CCR 1505-8	Rules concerning lobbyist regulation	12/13/2019	1/30/2020

**Table 1** The table provides new or amended permanent rules adopted during Fiscal Year 2019-20.

- b. Have you done any cost-benefit analysis 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 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.

5 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 2020-21, the Department operates primarily in five funds. The key drivers of expenses for each fund are outlined in Table 2 below.

Fund	Key Expense Drivers
CDOS Cash Fund <sup>1</sup>	<ul style="list-style-type: none"> <li>• Personal Services Costs (employees and contractors) – approximately 61.2 percent of total expenses in FY 2019-20</li> <li>• Statutory Cash Fund Local Election Reimbursement payments to counties<sup>2</sup> accounted for approximately 11.4 percent of the Department’s FY 2019-20 expenses</li> <li>• Office rent – approximately 3.1 percent of total expenses in FY 2019-20</li> </ul>
Federal Elections Assistance Fund <sup>3</sup>	<ul style="list-style-type: none"> <li>• Consists of grant funding provided by the Federal Government and expenses are restricted by grant requirements</li> <li>• Expenses for the purpose of improving the administration of federal elections, including security training, software development, secure ballot drop boxes, etc.</li> <li>• Includes supplemental Help America Vote Act (HAVA) funds provided by the CARES Act</li> </ul>
Electronic Recording Technology Fund <sup>4</sup>	<ul style="list-style-type: none"> <li>• Grants approved by the Electronic Recording Technology Board (ERTB):               <ul style="list-style-type: none"> <li>○ Grants to counties to establish, maintain, and improve electronic recording systems</li> <li>○ Grants to counties to digitize, index, and secure aged documents</li> </ul> </li> </ul>
Local Elections Assistance Cash Fund <sup>5</sup>	<ul style="list-style-type: none"> <li>• Grants to counties to reimburse them for the purchase of voting equipment to meet the requirements of HB 19-1278</li> </ul>
Identity Theft Financial Fraud Fund <sup>6</sup>	<ul style="list-style-type: none"> <li>• Transfer to the Department of Public Safety per Uniform Commercial Code (UCC) filing pursuant to statute (§24-33.5-1707(2)(a)(I)(A) C.R.S.)</li> </ul>

**Table 2** The table highlights key cost drivers for the each of the primary funds in which the Department operates in FY 2020-21.

Prior to the onset of the pandemic, with the economy at near full employment, the Department was seeing increases in contractor costs at a rate exceeding inflation. Further there was increasing pressure on

<sup>1</sup> §24-21-104(3)(b) C.R.S.

<sup>2</sup> §1-5-505.5 et seq C.R.S.

<sup>3</sup> §1-1.5-106(1)(a) C.R.S.

<sup>4</sup> §24-21-404(1)(a) C.R.S.

<sup>5</sup> §24-21-104.9(2) C.R.S.

<sup>6</sup> §24-33.5-1707(2)(a)(I)(A) C.R.S.

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 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.

As illustrated in Table 2, statutory Local Election Reimbursement payments to counties accounted for approximately 11.4 percent of the Department's FY 2019-20 expenses. Colorado continues to be a leader in the percentage of eligible voters who are registered to vote. As the number of active registered voters continues to increase, the Department expects to need to increase the Local Election Reimbursement appropriation in years ahead.

- 6 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. As discussed in Department-specific question #2 above, Colorado voter turnout for the 2020 General Election was the second-highest in the nation and the highest in the state's recent history. 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. These voting rate increases have downstream consequences on the Department's personnel as well. Counties are dedicating additional resources to conducting elections, which means more contacts with elections staff, as well as a heightened use of Department provided technology.

Increasing voter turnout has driven 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. The Department has seen increased time and resources needed to review the county election plans in light of the additional requirements in HB 19-1278. Further, the growing interest in elections led to an extraordinary increase in pre and post-election public contact. For instance, in the weeks following the 2020 General Election, the Department received thousands of phone calls and emails inquiring about the state's auditing and system certification processes. The Department anticipates that the increase in interest will continue beyond the 2020 cycle.

The evolving threat landscape has increased the need for focused attention by our technical and cybersecurity staff and means that our office spends substantially more time compared to a decade ago on reviewing threat alerts. For the 2020 General Election, the Department also worked to counter foreign misinformation and to direct voters to reliable sources of election-related information. 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.

### Business and Licensing

Business filings and charitable solicitation registrations continue to increase. To provide two examples, approximately 950,000 business filings are processed in a year and registered businesses in good standing have increased from 480,230 at the end of the first calendar quarter of 2012 to nearly 800,000 at the end of the third calendar quarter of 2020. Using a digital service model has reduced the resource impact 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 service model is highly dependent upon information technology (IT) resources to provide a good customer experience. IT resources are also harder to hire and more expensive to retain.

There has been a general increase in customers 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.

- 7 In some cases, the roles and duties of existing FTE may have changed over time. Please list any positions that have been created in the Department since FY 2018-19 that were not the result of legislation or a decision item.

When vacancies occur or new needs are identified, the Department utilizes existing FTE to fill these gaps by modifying the position description. The following positions have been added to the Department in this manner since FY 2018-19:

- Elections County Support (2 positions)
- Human Resources Specialist
- Quality Assurance Supervisor
- Director of Public Engagement
- Election Security Manager; funded by federal grant
- Election Security (2 positions); funded by federal grant

For all FY 2021-22 budget requests that include an increase in FTE:

- 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.

The Department has not requested an increase in FTE in its FY 2021-22 Budget Request.

- 8 Please describe any programmatic impacts resulting from cash fund transfers impacting the department as part of the FY 2019-20 and FY 2020-21 balancing process.

The Department's cash funds were not impacted by any transfers as part of the FY 2019-20 and FY 2020-21 balancing process.