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# Colorado Department of State Long-Range Financial Plan

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# Introduction to the Department of State

## *Background*

The Colorado Department of State (Department) performs numerous functions, ranging from registering businesses to overseeing elections. The Department is organized into four divisions: Administration, Business and Licensing, Elections, and Information Technology.

The Business and Licensing Division receives business filings such as business and nonprofit registrations, trademarks, trade names, and secured liens. The Business and Licensing Division also administers the state's commissions of notaries public, and it supervises the licensing and regulation of charitable bingo and raffle activities, charitable solicitors, and the registration of charitable organizations. Additionally, the Division licenses durable medical equipment providers, promotes availability of government data, and makes performing rights society information accessible. The Business and Licensing Division also provides apostille notarizations under the Hague Convention for documents to be used in international transactions or filings. Most filings are submitted electronically, and the Department disseminates this information to the public through its website (<http://www.coloradosos.gov>).

The Elections Division oversees state elections, campaign finance disclosure, statewide ballot initiative certification, and lobbyist registration. The Elections Division also oversees sub-grants made to counties from the Federal Elections Assistance Fund<sup>1</sup> and coordinates statutory local election reimbursement payments to counties.

The Administration Division and Information Technology Division (IT Division) provide support to the Department's programs. The Administration Division includes the Secretary of State's Executive Team, the Legal and Policy Unit, and also the E-Learning, Finance, Human Resources, and Operations Units that provide administrative support to the entire agency. The IT Division provides infrastructure and operations support as well as software development to support the Department's processes and programs.

Cash funds generated by business and other filings support the majority of the Department's activities. The Department administers funding from the Federal Government under the Help America Vote Act (HAVA) to support the administration of federal elections. Every four years, the Department receives a General Fund appropriation to cover counties' direct costs of conducting the Presidential Primary election (including in FY 2023-24). The Department's Long Bill is organized into sections by division. Appropriations are allocated based upon the historical utilization of resources by each division.

## *Mission*

We make government easy and accessible for people in order to further democracy, support economic opportunity for all Coloradans, and demonstrate a standard of integrity and excellence.

## *Vision*

Our vision is to ensure all Coloradans have a voice in our future, help Coloradans and their businesses thrive, and be the best at what we do.

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<sup>1</sup> § 1-1.5-106(1)(a) C.R.S.

## Major Functions of the Department of State

The major functions of the Department are presented below by division.

### *Administration Division*

The Administration Division of the Department of State provides operational support to the Department, including human resources, finance, office management, communications, and direct support to the Office of the Secretary of State. The Division works collaboratively to meet the needs of the Department staff and acts as a liaison between the leadership team and department staff. The Division regularly reviews and updates processes to ensure compliance, thoughtful decision-making, and consistent messaging to its internal teams. Through the execution of each program, the Administration Division seeks to ensure alignment with the Department's key performance goals and to provide staff with the resources that they need to be successful in meeting their own division-level goals.

The Administration Division is broken into five units. The key duties of each are outlined below.

#### Communications and Legislation

The Communications and Legislation Unit engages with the public, media, advocates, stakeholders, and elected officials to provide information regarding department services and programs and to advocate on behalf of the Department and Secretary. The unit:

- Tracks the advancement of legislation in Colorado and other states to determine if there is a potential impact on the Colorado Department of State's budget, programs, or operations
- Develops legislation to support the organization's strategic initiatives
- Identifies significant policy issues on the Federal and State levels, and makes recommendations that best support the agency
- Evaluates the benefits and consequences of legislative policy changes within the office, throughout the State and nationally, and communicates that information to a variety of stakeholders.
- Analyzes regulatory and legislative trends
- Develops and fosters effective relationships with government agencies, government partners, key policymakers, the business community, and stakeholders
- Communicates with the media, constituents, and the general public
- Proactively communicates with and responds to inquiries from the general public and the media

#### Finance

The Finance Unit manages and oversees all aspects of the Department's accounting, budgeting, contracting for services, and procurement. The unit also cooperates with the Elections Division and Electronic Recording Technology Board (ERTB)<sup>2</sup> on issuing grants to counties. The unit:

- Maintains responsibility for monthly, quarterly, and annual "close"
- Interprets and applies state fiscal rules and procedures, and federal guidelines and regulations
- Provides advice and assistance to Department leadership
- Executes an operating budget in cash and federal funds
- Develops processes for grants management
- Manages accounts payable and accounts receivable
- Ensures compliance with the State Fiscal Rules, fiscal policies, and procedures
- Coordinates with the Office of the State Auditor on annual financial audit

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<sup>2</sup> § 24-21-401 et seq C.R.S.

- Provides budget and policy analyses
- Assists with fiscal note analysis and preparation
- Collaborates with the Information Technology Division to maintain the Department’s internal accounting system
- Prepares and submits the Department’s annual budget request
- Processes and reconciles payroll
- Conducts solicitations and ensures compliance with the Procurement Code and Rules
- Assists with the development of all contracts with financial terms and grant agreements<sup>3</sup>
- Submits required financial reports to grantors

### Human Resources

The Human Resources Unit is responsible for managing, planning, directing, and coordinating a wide array of administrative functions of the Department. The unit:

- Manages Department recruiting, interviewing, and hiring processes
- Creates and implements internal policies
- Develops and implements compensation policies in alignment with state requirements
- Interprets and applies state law, personnel rules and procedures, federal guidelines and regulations
- Provides advice and assistance to department leadership, managers, and staff, regarding personnel matters
- Oversees labor relations and employee relations
- Coordinates and administers departmentwide training program
- Monitors personnel matters regarding use of benefits such as Family and Medical Leave (FML), Leave Without Pay (LWOP), short term disability, etc.
- Monitors and assist with resolution of personnel matters
- Develops and administers performance management program
- Reviews and improves administrative business processes
- Establishes and maintains effective internal controls
- Provides mechanisms to monitor and enforce compliance
- Ensures compliance with state law, personnel rules, and procedures

### eLearning

The eLearning Unit creates and maintains online training available to the public and Department employees.

- Identifies eLearning training goals and objectives
- Develops plan for eLearning course creation
- Works with subject matter expert to plan and organize course content
- Analyzes content to ensure that it satisfies the stated goals and objectives of the training
- Creates eLearning courses
- Ensures that training products conform to specified eLearning standards, including Americans with Disabilities Act (ADA) compliance
- Announces and publicizes new training courses
- Evaluates training effectiveness
- Provides customer service and technical support as it pertains to course participants

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<sup>3</sup> The Finance Unit assists with the development of grant (or sub-grant) agreements when the Department is the grantor.

## Legal and Policy

The Legal and Policy Unit reviews and oversees all aspects of the Department's legal compliance and policy matters. The unit:

- Receives and responds to all Colorado Open Records (CORA) requests
- Coordinates and ensures compliance with all administrative rulemaking matters for each of the Department's divisions
- Acts as liaison with the Colorado Attorney General's office on the Department's legal representation
- Reviews and provides guidance on legal and compliance matters for each of the Department's divisions
- Provides legal and policy support to the Secretary of State and Executive Team

## ***Business and Licensing Division***

Through its organization and execution, each major program aligns with the Department's mission ("We make government easy and accessible for people in order to further democracy, support economic opportunity for all Coloradans, and demonstrate a standard of integrity and excellence.") and key goals (LEAN-based process improvement; continued expansion of eLearning, data and analysis tools and consultative services, and delivery of innovative technology products). The sections below provide details on specific activities by major program that align with department goals.

## Business Filings<sup>4</sup>

The Business Filings Program serves business owners, managers, attorneys, and others. Approximately 1,180,000 business filings are processed each year. The vast majority of transactions are done online. The Department continues to add and enhance online services. The most recent releases include text messaging, new LLC formations, , Periodic Reports, Profit Corporation formations, and Non-profit Corporation formations. The Department is also in the midst of a complete rewrite of the business filing system code base. In addition, the Business Filings Program:

- Maintains the State businesses registry
- Files business entity, trade name, and trademark records
- Allows customers to manage, search, copy, and certify records online
- Operates a customer service support center that provides in-person, email and telephone support

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<sup>4</sup> § 7-90-301 C.R.S.

### Bingo-Raffle<sup>5</sup>

The Bingo-Raffle Program licenses nonprofits to conduct Bingo-Raffle operations, including bingo, pulltabs, raffles, progressive bingo, progressive pulltabs, and progressive raffles. In so doing, the program:

- Oversees charitable gaming practices of qualified nonprofit organizations
- Regulates gaming related business enterprises, such as commercial bingo halls, manufacturers, and suppliers
- Licenses bingo hall landlords, bingo equipment manufacturers, and bingo-raffle suppliers
- Educates the public on The Bingo and Raffles Act
- Investigates complaints
- Conducts games manager certification classes
- Conducts on-site field inspections
- Processes quarterly reports from licensed entities

### Colorado Charitable Solicitations Act<sup>6</sup>

The mission of the Colorado Charitable Solicitations Act (CCSA) Program is to provide transparency for donors to make informed giving decisions and to strengthen public trust in legitimate charities. The program is responsible for registering charities, paid solicitors, and professional fundraising consultants. As part of this, the program:

- Discourages unscrupulous practices by promoting transparency and accountability among charitable organizations
- Regulates and publishes public information for approximately 15,000 registered charities operating in the state
- Educates the public on the CCSA
- Investigates complaints
- Publishes an annual report
- Works with other regulators and the nonprofit sector on national issues

### Notary<sup>7</sup>

The Notary Program is responsible for the commissioning and regulating notaries public, remote notaries, and remote notarization providers. The program also:

- Provides authentications or apostilles for documents to be used in foreign countries
- Provides service to verify notary information
- Processes notary commission applications and renewals
- Conducts notary training
- Investigates complaints

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<sup>5</sup> § 24-21-6 C.R.S.

<sup>6</sup> § 6-16-101 C.R.S.

<sup>7</sup> § 24-21-501 et seq C.R.S.

### Business Intelligence Center (BIC)<sup>8</sup>

The Business Intelligence Center (BIC) Program engages with state agencies, counties, and cities to make public data accessible by publishing datasets on the Colorado Information Marketplace (CIM). The program is focused on:

- Serving as an online resource to help Colorado business owners address decision-making challenges they face on a day-to-day basis.
- Acquiring and making public data available for use by the business community through the Colorado Information Marketplace (CIM).
- Community engagement and education initiatives in partnership with Colorado University (CU) Leeds Business Research Division (BRD).

From FY 2015-16 through FY 2022-23, the BIC program had two dedicated line items within the Department's budget, one for personal services costs and another for operating expenses. There is now only a single dedicated line item for personal services to support the program (FY 2023-24 is the first year with a single BIC Program appropriation). In addition, the program is authorized by statute to accept and solicit gifts, grants, and donations.<sup>9</sup> The program submits an annual report detailing cash and in-kind donation revenues and expenses to the Joint Budget Committee (JBC) in response to a Request for Information (RFI).

### Administrative Rules<sup>10</sup>

The Administrative Rules Program is responsible for the authenticated publication of the Code of Colorado Regulations (CCR) and Colorado Register. The Program continues to be compliant with the Uniform Electronic Legal Material Act (UELMA). The program:

- Serves all State of Colorado agencies and any person researching Colorado rules and regulations
- Provides real-time online record of all state rulemaking activities, using an award-winning electronic filing system
- Files rulemaking notices for state agencies
- Provides consultation and training to agency rule filers

### Durable Medical Equipment (DME)<sup>11</sup>

The Durable Medical Equipment (DME) Program oversees the licensure of DME suppliers who conduct business in Colorado. It is also responsible for managing the complaint process and field inspections for these entities.

### Performing Rights Societies<sup>12</sup>

The Performing Rights Societies Program requires the Department to post an electronic copy of required information (each contract licensing the public performance of nondramatic musical works in the performing rights society's repertory to proprietors in the State of Colorado, together with the applicable schedule of royalty rates payable) on the Department's website:

(<https://www.sos.state.co.us/pubs/performingRights/index.html>).

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<sup>8</sup> § 24-21-116 C.R.S.

<sup>9</sup> § 24-21-116(8) C.R.S.

<sup>10</sup> § 24-2-103 C.R.S.

<sup>11</sup> § 24-21-115 C.R.S.

<sup>12</sup> § 6-13-102 C.R.S.



## ***Elections Division***

Within the Elections Division, there are eight programs. Each of these programs is described below.

### Voting Systems

The Voting Systems Program is responsible for certifying voting equipment for use in Colorado elections, administering the Risk-Limiting Audit (RLA), overseeing the Election Night Reporting (ENR) system, and conducting ongoing random security audits throughout the state.

### SCORE

The Department maintains the Statewide Colorado Registration and Election (SCORE) system, which is the statewide voter registration database. Within the Elections Division, the SCORE Program is responsible for administering the database, assisting county elections officials in conducting elections, and providing data for the division, the Department, the media, and the public.

### Training and Certification Program

The Elections Division's Training and Certification Program provides in-person and remote instructional classes for Colorado county officials who conduct elections. All county clerks are required to complete the Colorado Election Official Certification program within six months after taking office, or before conducting their first election. And county staff members with direct responsibility for conducting elections are required to complete Certification program within one year of starting their jobs. To achieve certification, a person must complete 12-13 online classes and 1-2 in-person classes for a total of 14 classes. Once a person is certified, he or she must take four classes each year to maintain certification. Currently, 401 Colorado election officials are certified, and 52 officials are working to complete initial certification. The program was strengthened in SB 22-153, the Colorado Election Security Act (CESA), the bill clarified what election officials must obtain certification, shortened the timeline for obtaining initial certification, and added to the minimally required categories of training. The program also provides county clerks with an Elections Planner, which is a daily, weekly, and monthly calendar that helps keep clerks on track with their election planning.

### Ballot Access

The Ballot Access Program assists candidates and ballot initiative proponents in accessing the ballot, administers access to the ballot following state law and Department rules, and certifies elections results. The program also organizes and administers Title Board meetings where titles are set for ballot initiatives.

To process petitions, the program uses petition review software provided by an outside vendor, Runbeck Election Services (Runbeck), and collaborates with the Document Solution Group (DSG) at Integrated Document Solutions (IDS), a division of the Department of Personnel and Administration (DPA). IDS charges for this purpose are paid through a common policy line item that was established in FY 2019-20 (SB 19-207). There is a dedicated line item in the Department's budget, Initiative and Referendum, that is used to pay Runbeck and other non-state personnel costs associated with processing petitions.

### Campaign and Political Finance

The Campaign and Political Finance (CPF) Program administers and enforces the provisions of Colorado’s campaign and political finance laws as set forth in the Colorado Constitution<sup>13</sup>, statutes<sup>14</sup>, and Department rules. In support of this, the program maintains and administers the Department’s online filing system: Transparency in Contribution and Expenditure Reporting (TRACER). The program also staffs a CPF Help Desk that assists more than 5,000 filers at the state, county, school board, and special district levels in filing their legally required disclosure reports. The program also works closely with the Elections Legal Program to administer the campaign finance penalty and waiver processes.

### Campaign and Political Finance Enforcement

The Campaign and Political Finance Enforcement Program ensures compliance with, and uniform enforcement of, Colorado’s campaign and political finance disclosure laws and rules.<sup>15</sup> The program reviews TRACER filings, reviews campaign finance complaints, investigates potential violations of campaign finance law, and drafts notices of initial review, and prosecutes violations by filing enforcement actions with a hearing officer. The program is responsible for implementing new legislation and promulgating administrative rules with respect to campaign finance enforcement.

### Lobbyist Registration

The Lobbyist Program regulates and administers the lobbyist statute and the Department’s rules pertaining to the influencing, drafting, passage, and implementation of legislation, and other matters before state public officials. The program also enforces regulations by suspending or revoking noncompliant lobbyists from operating in the state for a period of up to a year.

### Elections Legal

The Elections Legal Program provides support on legal issues to other programs within the division. The program is also responsible for advising the Secretary of State on potential legislative changes, coordinating rulemaking to incorporate legislative changes, and managing grants to the counties for HAVA funds and state funds. The team works closely with the Department Finance team to prepare grant agreements and manage county submissions for payment under those agreements.

### Elections Operational Support

The Elections Operational Support Program serves as an internal consulting group for the Elections Division. The program’s business analysts evaluate program areas and business practices, defining customer needs and problems, gathering requirements, designing solutions, and ensuring the successful implementation and ongoing maintenance of those solutions. Program staff oversee projects throughout their lifecycle and work collaboratively with project stakeholders to establish success criteria and stakeholder expectations. The program also works to compile, maintain, and analyze data related to division programs; track performance metrics; and present data in a meaningful way for both internal and external consumption.

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<sup>13</sup> Article XXVIII of the Constitution of Colorado

<sup>14</sup> Title 1, Article 45 C.R.S. – Fair Campaign Practices Act

<sup>15</sup> Article XXVII of the Constitution of Colorado, Title 1, Article 45, C.R.S., and 8-CCR 1505-6

## Elections Security

The Election Security team funded by federal HAVA Election Security funds and the State's required matching funds, works to protect Colorado's elections from cyber-attacks and foreign interference. The team works hand in hand with the Department's Information Security team and counties to increase cyber preparedness and provide another important resource for counties. The team works closely with county clerks to help counties improve physical security for election-related infrastructure to ensure the safety of staff and election materials. The team also partners with the Voting Systems team to assist with conducting random security audits.

## ***Information Technology Division***

Through cooperation with the legislature, the Department has expanded its customer service opportunities through its web portal and online services. The Information Technology (IT) Division has created and supported these efforts through software development, tutorials and filing and search features. The IT Division manages and supports the entire Department's various processes and programs through customer-friendly data collection and filings. In addition, that information is organized in a variety of searchable databases that are made available to the public via the department's website.

The online nature of our service delivery model requires the IT Division to ensure safe and secure access to our systems and the data collected and maintained by our systems. The Department continues to be recognized as a leader in the use of technology in multiple program areas within Colorado and nationally.

The importance of cybersecurity operations within the Department cannot be overstated. Along with the threats faced by any organization whose primary job functions include maintaining a website, accepting payments online, and managing official records in electronic form, the Department is also responsible for managing the security and operations of the state's election-related systems. The designation of election systems as Critical Infrastructure of the nation by the U.S. Department of Homeland Security has heightened the profile of our information security program. The Department has played a crucial role in establishing a community of partners (including the U.S. Cybersecurity and Infrastructure Security Agency, the Elections Infrastructure Information Sharing & Analysis Center, the Colorado Division of Homeland Security & Emergency Management, the Colorado National Guard, the Governor's Office of Information Technology, the Colorado Threat Intelligence Sharing group, and Colorado county clerks and their support teams) to create a culture of cybersecurity awareness, institute information sharing practices to inform stakeholders of threats and incidents, and identify and respond to threats to election systems.

Over the past several years, the threats to election infrastructure and the conduct of elections have only become more well-known. The Department's information security program has responded by adding staff and capabilities to defend state assets and provide guidance and support to local election officials as well. Working together with our Elections Division, the division is also working to identify and combat foreign influence operations whose goal is to sow division and diminish voter's confidence in U.S. elections. The Department also is working closely with the Governor's Office of Information Security and local cybersecurity resources as a long-term "Whole of State" approach to cybersecurity develops.

The IT Division's budget covers the vast majority of software license expenses that are required to support the Department's operations. This includes the maintenance costs associated with major elections-related systems, such as TRACER, UOCAVA, ENR, ballot tracking services, and ballot envelope signature cure systems.

The IT Division is broken into two major work units: Software Development and Infrastructure and Operations. The responsibilities of these work units are outlined below.

## Software Development

- Problem analysis, requirements gathering, and software design
- Secure DevOps<sup>16</sup> software development
- Development database design, support, and development
- Production database support
- Software quality assurance
- Software configuration management
- Website design and support including accessibility.
- Maintenance and operations of customer and third-party software used in the software development lifecycle

## Infrastructure and Operations

- Secure DevOps planning to support software development pipeline flow, feedback, and continual learning.
- Project management and support.
- Data governance and lifecycle management.
- Office security, including cybersecurity, physical security, and information security.
- Agency infrastructure and operations (e.g., network devices; security devices and systems; database, application, and web servers; phone system; virtualized Windows and Linux servers; SharePoint intranet sites; desktops, and laptops; cloud infrastructure, agency data center environmental systems)
- Office hardware (printers, scanners, monitors, etc.)
- Help Desk for internal agency personnel
- Building cloud infrastructure to support production operations as well as implement effect disaster recovery and continuity of business.

## ***Electronic Recording Technology Board (ERTB)***

SB16-115 created the Electronic Recording Technology Board (ERTB) within the Department of State. During the 2021 Session, HB 21-1225 was passed and extended the ERTB's authorization through September 1, 2026. The ERTB is an enterprise for the purposes of Section 20 of Article X of the Constitution of Colorado. However, the ERTB largely operates outside of the day-to-day operations of the Department and is not included in the Department's Strategic Plan or SMART Act reporting. Its revenue and expenses are recorded in the Electronic Recording Technology Fund (ERTF).<sup>17</sup>

The ERTB has a mission to develop, maintain, improve, replace, or preserve land recording systems in the state through the use and expansion of electronic technology. HB 21-1225 expanded the board's statutory grant-making authority to include grants for the purpose of improving a county's general information technology systems if the improvement is necessary to improve the security of the county's electronic filing system for property records.<sup>18</sup> In pursuit of its mission, the board uses revenue from a \$2 per document surcharge on all

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<sup>16</sup> 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 August 24, 2021).

<sup>17</sup> § 24-21-404(1)(a) C.R.S.

<sup>18</sup> § 24-21-404(2)(a)(II) C.R.S.

documents received by a county clerk and recorder for recording or filing to make grants to counties to digitize, index, and secure aged documents, and improve their electronic recording systems. HB 21-1225 extended the authorization for this surcharge through April 30, 2026. Recently, the amount of revenue coming to the board for its grants has declined because of the decline in real estate transactional activity generally, across the state, but to date, the board has had sufficient funds to meet the needs identified by counties in their applications to the board for grant awards.

## Program and Goal Evaluation

The Department is currently meeting the vast majority of divisions’ goals and objectives, while meeting all statutory responsibilities. Goals and metrics from Department’s SMART Act<sup>19</sup> reporting are organized by division and provided below.

For this Long-Range Financial Plan, the Office has updated progress on selected goals described to be consistent with the Colorado Department of State Strategic Plan for FY 2022-23.<sup>20</sup> The selected goals in this report best capture the priorities of the Department’s divisions.

### *Administration Division*

**Department-wide Goal:** *Through partnership and collaboration between all divisions, we will continue to diminish the effects of unconscious bias and work towards a more equitable and inclusive workplace for all employees.*

**Division Strategy:** *Implement selected activities that support equity and inclusion. Create opportunities to solicit feedback and monitor the process to ensure that it is adhering to best practices for data collection, inclusiveness, and equity.*

Performance Measure		FY 2022-23
Number of Equity Diversity and Inclusion (EDI) related trainings offered	Target	6
	Actual	9

Through collaboration with a diverse representative council and with the facilitation and support of Administration personnel, the Department continues to create opportunities for team building, communication, and development to work towards a more equitable and inclusive workplace.

**Department-wide Goal:** *Streamline and modernize current technology in order to better serve the user and reduce costs and technical debt.*

**Division Strategy:** *Where possible within existing rules and laws, enable electronic approvals of contract, interagency agreements, and grant agreements.*

Performance Measure		FY 2022-23
Proportion of invoices sent to Finance inbox	Target	95%
	Actual	86%

The Department has inserted language into all contracts and purchase orders directing vendors to send invoices to the Finance mailbox. In FY 2022-23, it worked with contract managers and other program level staff to follow up with vendors that are sending invoices to program contacts, instead of to the Finance mailbox. Some vendors have been more resistant to making this change or have reverted to sending invoices only to program staff. The unit plans to redouble these efforts in FY 2023-24. This process allows the finance team to efficiently process transactions in a remote work environment, to directly communicate with vendors, and to mitigate the risk of invoices being lost or otherwise unpaid.

<sup>19</sup> § 2-7-205 C.R.S.

<sup>20</sup> <https://www.coloradosos.gov/pubs/newsRoom/SMART-Act/FY22-23/index.html>

## ***Business and Licensing Division***

***Department-wide Goal:*** Streamline and modernize current technology in order to better serve the user and reduce costs and technical debt.

***Division Strategy:*** Increase bingo/ raffle quarterly online filing with focused outreach.

Performance Measure		FY 2021-22	FY 2022-23
Percentage of Bingo-Raffle electronic quarterly reports submitted	Target	85%	90 %
	Actual	90%	95 %

The Program's strategies to increase online adoption have seen almost zero recidivism, allowing staff to continue focusing on an ever-decreasing number of entities that still file on paper. Beginning in FY 2022-23, the Division has delivered personalized letters to paper filers, upon completion of processing their documents, which highlighted the benefits of online filing along with offers of tutorials and staff support to make the shift to online filing. These letters were often accompanied by individual outreach efforts by program staff. The program has started running reports that identify success rates in adoption for this population, while continuing to identify individual high-touch contact opportunities. The Division anticipates incremental movement toward 100%, with discussions regarding exclusive online reporting to be determined at a future date.

***Department-wide Goal:*** Ensure expanded and comprehensive support to our customers through a variety of enhancements to systems and staff.

***Division Strategy:*** Use and expand the Department's multiple eLearning technologies to meet the evolving internal and external learning needs.

		FY 2021-22	FY 2022-23
Add/update eLearning modules	Target	44	47
	Actual	45	47

Since its inception in 2012, the Department's eLearning platform has proven to be popular with constituents and an effective way for programs to deliver information and training to an ever-changing and ever-growing customer base. The Business and Licensing Division is an enthusiastic supporter of the Secretary's drive to educate and empower the Department's customers and constituents in cost-effective ways and to date have developed 47 offerings covering a wide range of topics, the most recent of these being geared toward assisting our customers more effectively submit complaints regarding allegations of fraudulent business filings. Prior to this we also built a module to support the bingo-affle community as it shifts to online filing of required documents. Additionally, the Division is focusing resources on building internal modules to assist as refresher content for our frontline staff that will ensure enhanced experiences for our customers when they contact our office. To increase the Department's support of diverse communities, it is actively translating existing modules into Spanish - with 5 courses having been converted thus far (one more than last reporting period). Many eLearning opportunities are identified based upon feedback received by the Division's Customer Support

Services (CSS) team. The Division has also trained staff in course development to increase capacity for this type of project. The Division leverages the eLearning platform to provide training and certification modules that can be accessed from anywhere in the world with an internet connection any time a customer wishes to access them.

***Elections Division***

***Department-wide Goal:*** *Dedicate time and resources to analyzing specific processes, and improving them in order to increase efficiency, ensure consistency, and better our work.*

***Division Strategy:*** *Consistent and strong enforcement of campaign and political finance laws.*

Performance Measure		FY 2022-23
Average resolution of campaign finance complaints	Target	90 days
	Actual	114 days <sup>21</sup>

\*Progress to FY22-23 target as of April 2023

Within statutorily defined timelines and parameters, the Division seeks to conduct a thorough review and investigation into each complaint and reach uniform and consistent enforcement as evidenced by granted motions to dismiss and approved settlement agreements. Consistent enforcement of campaign and political finance complaints provides notice to candidates, committees, and others on what is expected for compliance. Ensuring complaints that do not allege violations are dismissed upon initial review, issuing requests for information during the cure and investigation stages, and conducting thorough reviews, all assist the Division in the timely resolution of complaints, either through dismissal, settlement, or a hearing by a hearing officer.

***Department-wide Goal:*** *Dedicate time and resources to analyzing specific processes and improving them in order to increase efficiency, ensure consistency and better our work.*

***Division Strategy:*** *Facilitate a complaint process that is transparent and easy to navigate by complainants, respondents, the press and external third parties.*

Performance Measure		FY 2022-23
Number of third-party complaints filed with the Division	Target	40
	Actual	101

Any person can file a complaint with the Elections Division regarding a potential campaign and political finance violation. Timely and consistent handling of complaints, that result in consistent enforcement of rules and regulations, builds trust in the compliant process, greater compliance by those required to register and report, and provides clarity on those seeking to comply with campaign and political finance regulations. A significant increase in third-party complaints could be evidence of loopholes or lack of clarity in our rules and regulations, where otherwise compliant candidates or committees are failing to comply with registration and reporting requirements. Tracking the complaints over time allows us to see how the public has become more

<sup>21</sup> During FY 2022-23, more than double the anticipated number of complaints were filed. Other factors affecting the average resolution time include staffing changes within the enforcement team and a transition in the hearing officer process.



aware of the enforcement process, possible confusion and loopholes that can be resolved, and provide notice to those who register and report.

**Information Technology Division**

**Department-wide Goal:** *Through partnership and collaboration between all divisions, we will continue to diminish the effect of unconscious bias and work towards a more equitable and inclusive workplace for all employees.*

**Division Strategy:** *Build Jira projects with feedback, visibility, and communication across the department.*

Performance Measure		FY 2022-23
Build customer facing dashboards to increase visibility of work	Target	80% of active, large projects have a specific project dashboard, and work units are progressing toward having unit-specific boards
	Actual	100%* of active, large projects (5 current active, large projects) have customer-facing dashboards; six individual work units have dashboards for daily activity and project tracking

\*Percentage for FY22-23 target as of April 2023

The Department is focused on creating dashboard views for large projects to allow all project stakeholders to obtain on-demand access to real-time project status. This allows line of business stakeholders to be active, engaged members of project teams and improves accountability of all project team members. The Department is also encouraging the adoption of team dashboards for individual work units to allow daily task management, tracking, and historical reporting.

**Department-wide Goal:** *Focus on enhancing physical and cyber security for our Department, stakeholders, and staff.*

**Division Strategy:** *Provide monthly scanning and reporting for critical and high vulnerabilities across CDOS infrastructure.*

Performance Measure		FY 2022-23
Report on time to mitigate or resolve critical and high vulnerabilities	Target	100% of all vulnerabilities rated “critical” and “high” are mitigated or resolved within the timeline specified in our vulnerability management policy (30 and 60 days respectively)
	Actual	100%* of known current “critical” and “high” vulnerabilities have been mitigated or resolved within the applicable timeframe

\*Percentage as of April 2023

The Department’s cybersecurity program is committed to addressing vulnerabilities rapidly and effectively. By utilizing internal and external vulnerability scanning, in concert with regular penetration testing, the Department endeavors to identify potential vulnerabilities and apply protections to prevent exploitation of those

vulnerabilities. “Critical” and “High” rated vulnerabilities must be closed within 30 and 60 days of initial discovery under its vulnerability management policy.

## Financial Structure

### *Overview*

The Department's budget is structured around the four divisions. With the exception of Document Management<sup>22</sup>, which is the Elections Division section of the Long Bill, all common policy line items are under the Administration Division. In FY 2023-24, the Department's expenses are expected to be in six funds:

- Department of State Cash Fund<sup>23</sup>
- Electronic Recording Technology Fund<sup>24</sup>
- Federal Elections Assistance Fund (a.k.a., the HAVA Fund)<sup>25</sup>
- General Fund<sup>26</sup>
- Identity Theft Financial Fraud Fund<sup>27</sup>
- IT Capital Account, Capital Construction Fund<sup>28</sup>

The Department of State Cash Fund (CDOS Cash Fund) covers the cost of most day-to-day operations for the Department. Revenue in the Federal Elections Assistance fund appears artificially high in FY 2018-19 and FY 2019-20 due to the timing of three federal grants. Significantly, the Election Assistance Commission (EAC), the Department's federal partner, advances the Department the entire amounts of its federal grants, so these are recorded as revenue in the years the grants are received, even though the expectation of both parties is that the funds will be expended over years. Figures 1 and 2 show revenue and expenses, respectively, by fund by fiscal year.

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<sup>22</sup> Document Management covers petition management services provided by the Document Solution Group (DSG) of Integrated Document Solutions (IDS), a division of the Department of Personnel and Administration (DPA).

<sup>23</sup> § 24-21-104(3)(b) C.R.S.

<sup>24</sup> The Electronic Recording Technology Board and Fund were created by SB 16-115 during the 2016 Legislative Session. § 24-21-404(1)(a) C.R.S.

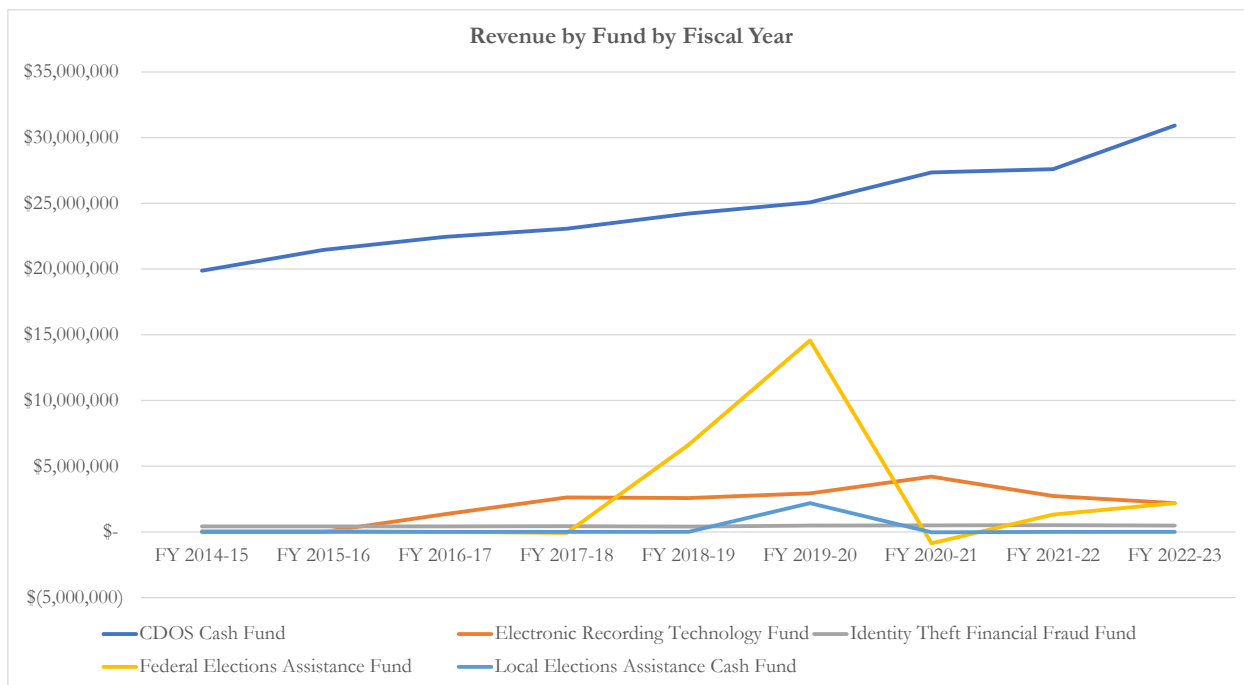
<sup>25</sup> § 1-1.5-106(1)(a) C.R.S.

<sup>26</sup> § 24-75-201 C.R.S.

<sup>27</sup> § 24-33.5-1707(1)(a) C.R.S.

<sup>28</sup> § 24-75-302(3.7) C.R.S.

As described above, day-to-day operations are almost entirely cash funded through revenue from business and other filing fees paid into the CDOS Cash Fund. Most departmental financial activity is recorded in this fund. For example, in FY 2022-23, 87.9 percent of all Department expenses and 87.3 percent of all Department revenue was recorded in the CDOS Cash Fund.



**Figure 1** The chart shows revenue by fund by fiscal year for FY 2014-15 through FY 2022-23, the eight most recently completed fiscal years. The chart illustrates that most of the Department’s revenue activity is in the CDOS Cash Fund. CDOS Cash Fund revenue in FY 2021-22 and FY 2022-23 has been adjusted to eliminate the impact of the GASB 87 lease accounting and the non-cash GASB 96 Subscription-based IT Arrangements (SBITA) accounting entries to ensure year-to-year comparability of the data.

Most annual revenue in the Federal Elections Assistance Fund in some years is limited to interest only. Under the Help America Vote Act (HAVA), the Federal Government advances the Department the full amount of the funding. Therefore, grants are recorded in full as revenue in the year that they are received. The negative Federal Elections Assistance Fund revenue in FY 2020-21 is the result of unspent CARES Act money that was returned to the Federal Government.

The Electronic Recording Technology Board (ERTB)<sup>29</sup>, an enterprise for the purposes of Section 20 of Article X of the Constitution of Colorado, operates within the Department of State. The ERTB largely operates outside of the day-to-day operations of the Department and all of its financial activity is in the Electronic Recording Technology Fund (ERTF). The ERTF accounted for 6.2 percent of all Department revenue and 1.6 percent of all Department expenses in FY 2022-23.

The Federal Elections Assistance Fund is used to pay all expenses associated with the Department’s Federal Funds from the HAVA grants. Expenditures from these grants must be to improve the administration of *federal* elections and cannot supplant state or county funds. The Department is required to report regularly to the EAC on these expenses. The Federal Elections Assistance Fund includes the required state matching funds on the 2022 tranche of HAVA Election Security Grant funds and the Department’s FY 2024-25 budget request includes a decision item to transfer the matching funds for the 2023 tranche of HAVA Election Security Grant from the CDOS Cash Fund to the Federal Elections Assistance Fund. This transfer is necessary to ensure that the state matching funds, once appropriated, must accrue interest and be recorded in the Federal Elections

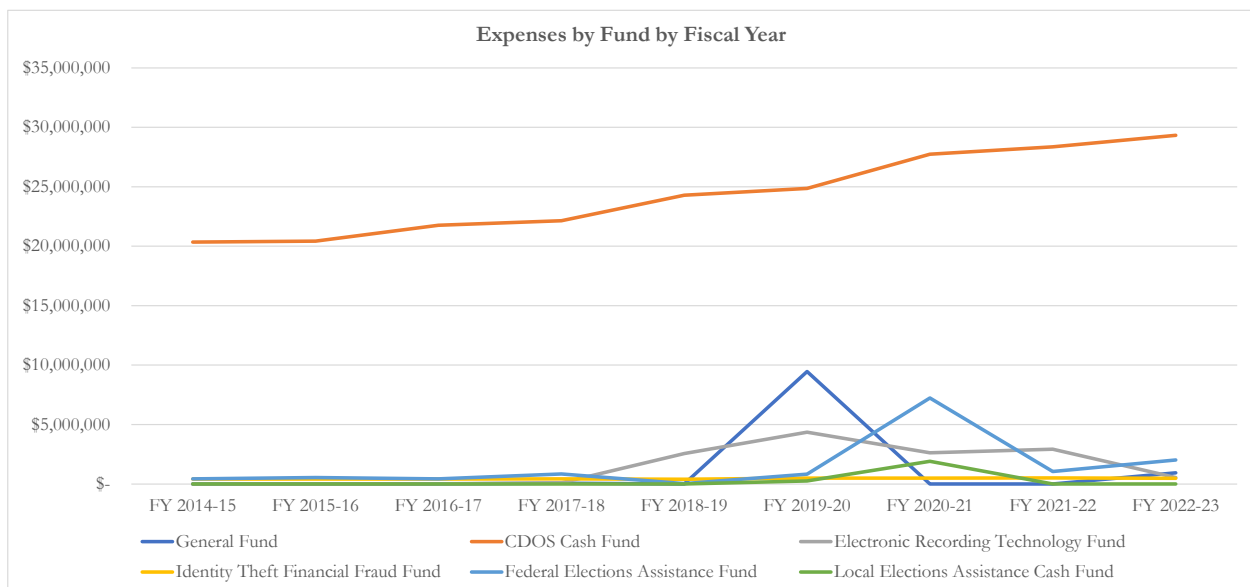
<sup>29</sup> § 24-21-401 et seq C.R.S.

Assistance Fund. In FY 2022-23, 6.1 percent of all Department expenses and 6.2 percent of all revenue involved the Federal Elections Assistance Fund. The Department has an outstanding matching funds requirement on the 2020 installment of its HAVA Election Security Grant which it expects to meet in the current fiscal year, FY 2023-24.

The Department’s activity in the Identify Theft Financial Fraud Fund is entirely related to transfers of surcharge revenue on uniform commercial code filings to the Department of Public Safety in accordance with §24-33.5-1708(2)(I)(A) C.R.S.

HB 19-1278 created the Local Elections Assistance Cash Fund (LEAF), which was funded by a one-time FY 2019-20 transfer of \$2,096,000 from the General Fund. The Department began making grants to counties for one-time purchases of voting equipment from this fund in late FY 2019-20 and by statute this activity concluded in FY 2020-21. All unexpended and unencumbered funds in the LEAF were returned to the General Fund on June 30, 2021 as required by statute.<sup>30</sup>

Figure 2 shows \$9.45 million in General Fund expenses in FY 2019-20. Approximately \$7.4 million of this amount represents the cost of reimbursing counties for the cost of the March Presidential Primary Election in accordance with §24-21-104.5(2) C.R.S. The balance is accounted for by the cost of the one-time transfer to the LEAF as described in the previous paragraph. In FY 2022-23, the Department expended approximately \$930,000 in General Fund money in security grants to counties under the program created in SB 22-153 the Colorado Election Security Act (CESA).



**Figure 2** The chart shows expenses by fund by fiscal year for FY 2014-15 through FY 2022-23, the eight most recently completed fiscal years. As the chart illustrates, most of the Department’s expenditures are in the Department of State Cash Fund.

### Capital Expenditures

The Department of State’s only capital assets, based upon an accounting definition, are related to information technology, which is specifically excluded from the statutory definition of capital asset in § 24-30-1301(1)(b) C.R.S.

<sup>30</sup> § 24-21-104.9(6) C.R.S.

HB 22-1329, the 2022 Session Long Bill, provided \$1.61 million in IT Project funding from the IT Capital Account of the Capital Construction Fund to the Department for the combined Money in Politics System (MIPS). The aim is for the MIPS project to replace two existing systems: TRACER, the Campaign and Political Finance Disclosure system and the Lobbyist Registration system. The Department issued a Request for Proposals (RFP) in FY 2022-23 for the software licensing and development required for the MIPS system, but the RFP was cancelled. The Department is constrained in what it can disclose due to the confidentiality obligations of the RFP process, but is consulting with the State Purchasing and Contracts Office (SPCO) in the Department of Personnel Administration (DPA) on a new solicitation in compliance with the Procurement Code and Rules.

### *Long-Term Debt Obligations*

The Department does not have any long-term debt obligations.

## Financial Forecast

### Revenue Drivers

In FY 2023-24 the Department expects to have revenue primarily in four funds. The key drivers of revenue vary by fund as illustrated in Table 1.

Fund	Key Revenue Drivers
CDOS Cash Fund	<ul style="list-style-type: none"> <li>• Business and other filings. Top 20 filings generate approximately 90 percent of revenue and include annual reports, statements of foreign authority, trade names, uniform commercial code (UCC) filings, late fees, etc.</li> <li>• Campaign and political finance penalties and fines</li> <li>• Lobbyist fines</li> </ul>
Federal Elections Assistance Fund	<ul style="list-style-type: none"> <li>• Federal grants – as long as election security remains a top national priority, it is possible that the Federal Government could grant additional funds to Colorado</li> <li>• Interest</li> </ul>
Electronic Recording Technology Fund	<ul style="list-style-type: none"> <li>• Surcharge on documents presented to a county clerk and recorder for recording or filing</li> <li>• General economic activity drives filings, so a prolonged slowdown or recession is expected to impact revenue collected</li> </ul>
Identity Theft Financial Fraud Fund	<ul style="list-style-type: none"> <li>• Surcharge on electronic and paper UCC filings with the Department</li> </ul>

**Table 1** *The table highlights key revenue drivers for each of the four funds in which the Department expects to have revenue in FY 2023-24.*

As detailed in the preceding section, the vast majority of the Department’s revenue is in the CDOS Cash Fund and is driven by business and other filing fees. The varied nature of the Department’s filings mitigates the impact of recession on CDOS Cash Fund revenue. During the Great Recession (December 2007 – June 2009), CDOS Cash Fund revenue actually increased. Similarly, during the COVID-19 pandemic-related recession, CDOS Cash Fund revenue increased 9.1 percent in FY 2020-21 relative to FY 2019-20.

In FY 2022-23, the Department applied a credit for filers’ fees for new Limited Liability Company (LLC) filings from \$50 to \$1 and the new trade name registrations from \$20 to \$1.<sup>31</sup> HB 22-1001 transferred \$8.435 million from the General Fund to the CDOS Cash Fund to fund the Department for the estimated forgone revenue

<sup>31</sup> <https://www.coloradosos.gov/pubs/newsRoom/pressReleases/2022/PR20220701BusinessFees.html>

resulting from these filing fee credits. The fee credits led to significant increases in new LLC and trade name filings, with new LLC filings up 38.7 percent year-over-year and new trade names increasing by 13.7 percent year-over-year, leading to the exhaustion of the funding for the fee credit prior to the end of FY 2022-23.<sup>32</sup>

In FY 2023-24, the Department projects filing fee revenue in the CDOS Cash Fund of approximately \$30.0 million. Looking ahead to FY 2024-25, the Department will need to increase one or more filing fees. The Department will determine the specific fee or fees to be adjusted and the specifics of the changes once there is greater clarity on the funding (General Fund or CDOS Cash Fund) for the increased reimbursements to counties under the new reimbursement formula established by SB 23-276 and decisions have been made by the JBC and the General Assembly on the Department’s FY 2024-25 funding requests (decision items). At current fee levels, the Department projects CDOS Cash Fund revenue of \$31.38 million, based on filing revenue reverting to its historical average growth rate of approximately 4.59 percent. If the General Assembly fully approves all six of the Department’s FY 2024-25 funding requests and provides General Fund money for the incremental cost of the new county reimbursement, the Department projects it would need to generate \$3.47 million in additional CDOS Cash Fund revenue to cover expenses while maintaining responsible level of uncommitted cash fund reserves.

### Expense Drivers

As previously discussed, in FY 2023-24 the Department expects to have expenses primarily in seven funds. The key drivers of expenses for each fund are outlined in the table below.

Fund	Key Expense Drivers
CDOS Cash Fund	<ul style="list-style-type: none"> <li>• Personal Services Costs (employees and contractors) – roughly 60 percent of total expenses</li> <li>• Statutory Local Election Reimbursement payments to counties<sup>33</sup> accounted for approximately 10.6 percent of the Department’s FY 2022-23 cash fund expenses (this percentage would increase significantly were the General Assembly to saddle the Department with the incremental costs of the additional county reimbursements using the revised election reimbursement formula under SB 23-276)</li> <li>• Office rent – approximately 4.4 percent of FY 2022-23 expenses</li> <li>• State matching funds for federal grants, approximately 1.9 percent of FY 2022-23 expenses</li> </ul>
Federal Elections Assistance Fund	<ul style="list-style-type: none"> <li>• Expenses 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, anti-mis- and dis-information activities, IT and physical security improvement grants to counties, etc.</li> </ul>

<sup>32</sup> <https://www.coloradosos.gov/pubs/newsRoom/pressReleases/2023/PR20230519BizFees.html>

<sup>33</sup> § 1-5-505.5 C.R.S.

Fund	Key Expense Drivers
Electronic Recording Technology Fund	<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>
General Fund	<ul style="list-style-type: none"> <li>• IT Contractor costs for implementation of SB 19-235</li> <li>• HB 21-1071 (Ranked Choice Voting in Nonpartisan Elections) implementation costs</li> <li>• March 2024 Presidential Primary Election county reimbursements pursuant to § 24-21-104.5(2) C.R.S.</li> </ul>
Identity Theft Financial Fraud Fund	<ul style="list-style-type: none"> <li>• Transfer to the Department of Public Safety pursuant to statute (§ 24-33.5-1707(2)(a)(I)(A) C.R.S.)</li> </ul>
IT Capital Account, Capital Construction Fund	<ul style="list-style-type: none"> <li>• Combined Money in Politics System (MIPS) development and licensing costs to replace the TRACER and Lobbyist systems</li> </ul>
Indirect Costs Excess Recovery Fund <sup>34</sup>	<ul style="list-style-type: none"> <li>• Reappropriated funding provided in SB 23-214 for the implementation of HB 21-1071</li> </ul>

**Table 2** *The table highlights key expense drivers for each of the seven funds in which the Department expects to incur expenses in FY 2023-24.*

CDOS Cash Fund expenses will increase materially in FY 2024-25 and future fiscal years driven principally by the change to the formula for reimbursing counties for a portion of their costs in conducting elections with one or more statewide ballot questions. Specifically, Section 18 of SB 23-276 makes changes to the reimbursement formula in § 1-5-505.5 C.R.S. that requires the Department to reimburse counties for 45 percent of their costs in conducting any state primary, coordinated, general, congressional vacancy, special legislative, or recall election conducted after July 1, 2024. Since the conclusion of the legislative session, the Department has been working with counties to improve upon their estimates of elections costs. Based on a current county estimate of approximately \$22.0 million in costs for the November 2024 General Election, the Department will be required to reimburse counties approximately \$9.9 million in FY 2024-25. This is an increase of \$6.7 million from the estimated \$3.2 million the Department expects to reimburse counties in FY 2023-24. In SB 23-276, the General Assembly provided that \$2.5 million<sup>35</sup> (of this \$6.7 incremental amount) would be provided by the General Fund, but left open the source of funds for the remaining \$4.2 million. Were this \$4.2 million incremental expense to be paid from the CDOS Cash Fund, local election reimbursement payments to counties would constitute approximately one-quarter of the annual expenses from the cash fund in FY 2024-25. The Department must increase its business fees to cover these additional expenses in FY 2024-25. In future fiscal years in which there are multiple elections for which the Department will need to reimburse counties under the new reimbursement formula (see Table 4) these expenses will make up an even greater percentage of CDOS Cash Fund expenses, absent future support from the General Fund or other fund sources.

While counties have endeavored to provide the Department with their best estimates of costs for the 2024 General Election, importantly, there is significant uncertainty in these estimates. For one, it is impossible for counties to know many elections costs (e.g., ballot printing (driven by the size of the ballot, election judge salaries, security expenses, etc.) this far in advance. In addition, it has been the experience of both counties and the state in recent years that elections-related costs are increasing at a rate outpacing inflation. With no sign of

<sup>34</sup> § 24-75-1401(2) C.R.S.

<sup>35</sup> § 1-5-505.5(2) C.R.S., effective July 1, 2024



a reduction in threats directed towards elections workers and elections systems as well as heightened public scrutiny of elections processes, it is unlikely this trend of great cost increases will change prior to the November 2024 Presidential Election. Further, the data record for county elections expenses is limited. Historically, the Department has subsidized the cost of elections by making formula-based payments<sup>36</sup> to counties linked to the number of active registered electors on Election Day for coordinated elections in which there is a state ballot question and all general elections. While counties have provided general and coordinated election expenditure data to the Department for several election cycles, the data has not been comprehensive and it has not been audited because it had no impact on the amount the state paid to the counties. For the March 2020 Presidential Primary, the Department received, reviewed, and audited elections expenditure data from all counties in conjunction with the reimbursement payments from the General Fund to counties to cover their actual, direct costs in accordance with § 24-21-104.5(2) C.R.S., however, the costs associated with a presidential primary are not a good proxy for the costs of a general election. Furthermore, it is worth noting that when counties estimated their costs for the March 2020 Presidential Primary election, they underestimated their costs resulting in the need for the Department to receive a supplemental appropriation.

Looking ahead to FY 2025-26, a year in which the Department expects to need to reimburse counties for both the 2025 Coordinated Election and the 2026 State Primary Election in June 2026 (see Table 4), the CDOS Cash Fund’s expenses will see another step increase as a result of the new reimbursement formula under SB 23-276 as a result of the need for two election reimbursements, unless the General Assembly appropriates General Fund money for this purpose. While there is no guarantee that there will be a state ballot question on the November 2025 ballot, the Department must assume there will be one based upon recent history (in 29 of the last 32 years (90.6 percent) there has been a state ballot question) and the need to generate the cash revenue to make the payments to reimburse the counties. After all, an appropriation from a cash fund is meaningless without the actual cash.

November Calendar Year	State Fiscal Year	Was There a State Ballot Question?
1992	FY 1992-93	Yes
1993	FY 1993-94	Yes
1994	FY 1994-95	Yes
1995	FY 1995-96	Yes
1996	FY 1996-97	Yes
1997	FY 1997-98	Yes
1998	FY 1998-99	Yes
1999	FY 1999-00	Yes
2000	FY 2000-01	Yes
2001	FY 2001-02	Yes
2002	FY 2002-03	Yes
2003	FY 2003-04	Yes
2004	FY 2004-05	Yes
2005	FY 2005-06	Yes
2006	FY 2006-07	Yes
2007	FY 2007-08	No
2008	FY 2008-09	Yes
2009	FY 2009-10	No
2010	FY 2010-11	Yes

<sup>36</sup> \$0.90 per elector for counties with 10,000 or fewer active registered electors and \$0.80 per elector for counties with greater than 10,000 active registered electors pursuant to § 1-5-505.5(3) C.R.S.

November Calendar Year	State Fiscal Year	Was There a State Ballot Question?
2011	FY 2011-12	Yes
2012	FY 2012-13	Yes
2013	FY 2013-14	Yes
2014	FY 2014-15	Yes
2015	FY 2015-16	Yes
2016	FY 2016-17	Yes
2017	FY 2017-18	No
2018	FY 2018-19	Yes
2019	FY 2019-20	Yes
2020	FY 2020-21	Yes
2021	FY 2021-22	Yes
2022	FY 2022-23	Yes
2023	FY 2023-24	Yes

**Table 3** *The table illustrates that in 29 of the past 32 years, there was a state ballot question. The three years in which there was not a state ballot question are highlighted in yellow.*

Looking further ahead, FY 2027-28 likely will include three elections for which the Department will reimburse counties, two of which will be under the new reimbursement formula (under current law, reimbursements for the March 2028 Presidential Primary will be paid from the General Fund). This will have an impact both on the CDOS Cash Fund and on the workload of the Finance Unit and Elections Division which will be required to review and verify three sets of county elections expense documentation.

An additional challenge of the new law is the requirement that the Department reimburse counties for congressional vacancy, special legislative, and recall elections all of which cannot be predicted in advance. Should one or more of these unpredictable election types arise, it is a virtual guarantee that the Department will not know about it in time to incorporate the request into its annual budget request. As a result, it is likely that a supplemental appropriation would be needed. Also, as a cash-funded agency, it will also be practically impossible to raise sufficient incremental cash revenue in time to generate the cash necessary to reimburse counties for the unanticipated election. The reason for this is that the Department is constrained in the cash fund reserve it can build up by the Alternative Maximum Reserve on the CDOS Cash Fund<sup>37</sup>. Further, with a short time horizon to generate the cash, the Department would need to make a large increase to one or more fees, which is likely to catch many businesses off-guard. The Department typically changes fees for an entire year (the renewal cycle for most, though not all, of its programs) to ensure that all customers pay an equal amount.

The upcoming election schedule and anticipated county reimbursements are illustrated in the Table 4 on the next page.

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<sup>37</sup> § 24-21-104(4) C.R.S.

Fiscal Year	FY 2023-24	FY 2024-25	FY 2025-26	FY 2026-27	FY 2027-28
Law in Effect	Current Law	SB 23-276	SB 23-276	SB 23-276	SB 23-276
Election Type / Reimbursement Details					
November Election	2023 Coordinated Election	2024 General Election	2025 Coordinated Election	2026 General Election	2027 Coordinated Election
Reimbursement Method	\$0.80/\$0.90 per Active Registered Elector	45% of County Election Costs	45% of County Election Costs	45% of County Election Costs	45% of County Election Costs
Reimbursement Fund Source	CDOS Cash Fund	CDOS Cash Fund/General Fund	CDOS Cash Fund/General Fund	CDOS Cash Fund/General Fund	CDOS Cash Fund/General Fund
March Presidential Primary	2024 Presidential Primary	None	None	None	2028 Presidential Primary
Reimbursement Method	100% of Actual Direct Costs	N/A	N/A	N/A	100% of Actual Direct Costs
Reimbursement Fund Source	General Fund	N/A	N/A	N/A	General Fund
June State Primary	2024 State Primary	None	2026 State Primary	None	2028 State Primary
Reimbursement Method	None	N/A	45% of County Election Costs	N/A	45% of County Election Costs
Reimbursement Fund Source	N/A	N/A	CDOS Cash Fund	N/A	CDOS Cash Fund
Congressional Vacancy, Special Legislative, or Recall Election	Unknown	Unknown	Unknown	Unknown	Unknown
Reimbursement Method	None	45% of County Election Costs	45% of County Election Costs	45% of County Election Costs	45% of County Election Costs
Reimbursement Fund Source	N/A	CDOS Cash Fund	CDOS Cash Fund	CDOS Cash Fund	CDOS Cash Fund
<b>Total Known Elections with State Reimbursement Payments to Counties</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>3</b>

**Table 4** The table illustrates the upcoming election schedule for the current fiscal year and the following four fiscal years (a full four-year election cycle under the new county election reimbursement mechanism specified SB 23-276). The funding source for the incremental costs of the new reimbursement is yet to be determined by the General Assembly.

With respect to the CDOS Cash Fund in particular, the Department expects expenses to increase significantly, driven by inflation and contractor cost increases outpacing inflation as Contractors cite higher operating costs as well as increased cost of living for their staff members. The Department has submitted six decision items to increase spending authority that, if approved, will increase expenses by an estimated \$1.37 million in FY 2024-25. The Department's six prioritized decision items are:

- R-1: 2023 HAVA Election Security Grant State Match
- R-2: New IT Personnel for ADA Accessibility Compliance
- R-3: Increase Cybersecurity Defenses
- R-4: Inflation Adjustment for IT Hardware/Software Licensing
- R-5: Additional Business & Licensing Customer Support for Fraudulent Business Filing Complaints
- R-6: Increase in Elections Division Operating Expenses for Electronic Registration Information Center (ERIC) Membership Dues

Greater detail on each of these requests for spending authority is detailed in the narratives accompanying the Schedule 13s in the Department's FY 2024-25 Budget Request.

As illustrated in Table 2, statutory Local Election Reimbursement payments to counties<sup>38</sup> accounted for approximately 10.6 percent of the Department's FY 2022-23 cash fund 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 through inward migration and voter registration activity, the Department expects to need to increase this appropriation in years ahead. In FY 2023-24, in addition to the statutory per voter formula based reimbursement payments for the November 2023 Coordinated Election, the Department is required by statute<sup>39</sup> to reimburse counties from the General Fund for their actual and direct costs of the Presidential Primary Election. Counties' costs for administering elections have increased significantly since the last such reimbursement payments and are forecast to be approximately \$12.60 million in FY 2023-24.

In FY 2022-23, the Department expended approximately \$567,000 from the CDOS Cash Fund to meet the state matching funds requirement for the 2020 HAVA Election Security Grant funds. The Department's top priority decision item requests the spending authority for the \$234,488 in cash fund spending authority to meet the state matching funds obligation on the 2023 tranche of HAVA Election Security Grant money. Meeting the matching funds obligation (20 percent), enables the Department to leverage \$1,172,438 of federal funds for enhancing the security of federal elections. Different from recent state matches, the Department is required by the terms of the grant to transfer the full amount of the match in FY 2024-25 into the Federal Elections Assistance Fund and to accrue interest on the state matching funds.

#### Anticipated Trends and Potential Impact Factors

CDOS Cash Fund revenue was nearly flat in FY 2021-22 relative to FY 2020-21, increasing by only 0.93 percent.<sup>40</sup> While there was an approximately 12.0 percent increase in revenue in FY 2022-23 relative to FY 2021-22, the Department projects \$30.0 million in revenue in FY 2023-24 and expects filings growth to revert to its pre-pandemic long-term average growth rate of approximately 4.59 percent in FY 2024-25 and beyond.

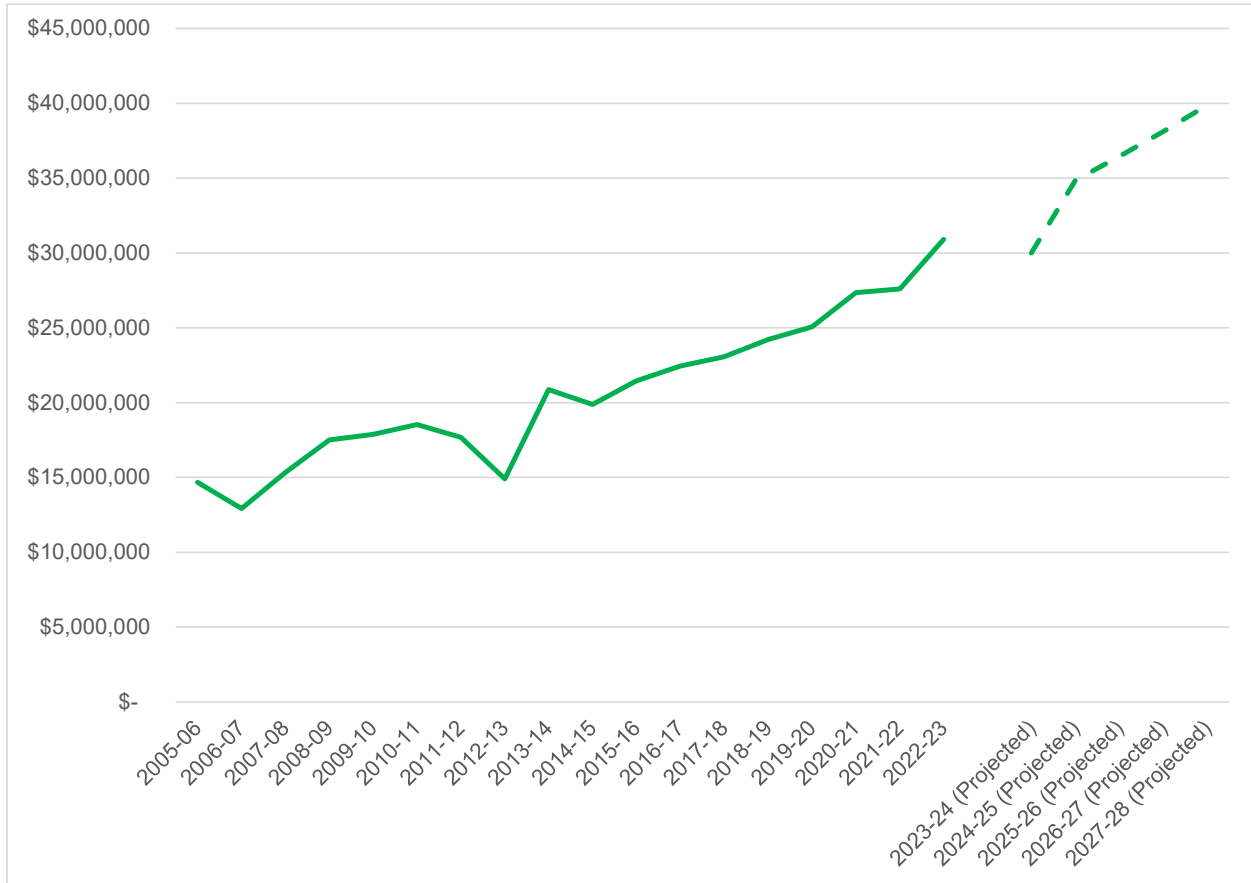
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<sup>38</sup> § 1-5-505.5 C.R.S.

<sup>39</sup> § 24-21-104.5(2) C.R.S.

<sup>40</sup> This calculation excludes the non-cash revenue entry in FY 2021-22 related to compliance with GASB Statement 87 on lease accounting.

The Department projects CDOS Cash Fund revenue of approximately \$30.0 million in FY 2023-24 as shown in Figure 3 below.



**Figure 3** The graph shows actual (solid line) and projected (dotted line) revenues for the Department of State Cash Fund (and other filing fee-based cash funds that existed in FY 2012-13 and prior years before being consolidated with the Department of State Cash Fund).

In the case *Griswold v. National Federation of Independent Business (NFIB)*, 2019 CO 79 (Sept. 23, 2019), NFIB challenged how Colorado pays for elections. The Colorado Supreme Court issued a narrow decision which allows the Department to maintain the current model for paying for elections. However, the decision did not rule on the ultimate issue – whether the Department’s fees constitute a tax that is subject to the Taxpayer’s Bill of Rights (TABOR).

While the CDOS Cash Fund is somewhat insulated from the impact of recession, a prolonged slowdown would have an adverse impact on revenue collected by the Department in the Electronic Recording Technology Fund and Identity Theft and Financial Fraud Fund.

## **Anticipated Funding Decreases**

### ***Federal Funds***

The Department is funded primarily through cash funds, but has received Federal Grants under the Help America Vote Act (HAVA), most recently in FY 2022-23. The HAVA funding broadly is required to be expended on improving the administration of *federal* elections, although individual grants carry additional restrictions upon how they may be expended. Federal funds also cannot be used to supplant existing state, county, or local government costs.

In FY 2022-23, the Department also received a subgrant from the Department of Public Safety from the Byrne Justice Assistance Grant (JAG) Program. However, this funding was relatively short-term in nature, covering approximately the three-month period of July 2022 – September 2023.

The Department has not received direct or sub-granted funding from the Federal Government for any other purpose. It has authority to receive gifts and grants, including Federal Grants, for the purpose of exercising the powers and performing the duties of the Secretary of State as specified in §1-1-107 C.R.S. (this section is focused on the Secretary of State’s various duties related to elections).<sup>41</sup> These funds are retained in the Federal Elections Assistance Fund.

In calendar years 2018, 2020, 2022, and 2023 the Department received four additional tranches of HAVA Election Security funds from the Election Assistance Commission (EAC). These grants are shown in Table 5 below. The Department has met the state matching funds requirement for the 2018 installment and expects to meet the matching funds requirement on the 2020 installment in FY 2023-24. The General Assembly approved the spending authority for the match on the 2022 installment in the 2023 Session Long Bill (SB 23-214). The Department has requested the spending authority for the \$234,488 in matching funds required by the 2023 tranche as part of its FY 2024-25 budget request.

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<sup>41</sup> § 24-21-104.7 C.R.S.

Grant Name	Federal Award Amount	State Match	Total Funding	Notes
2018 Tranche - HAVA Election Security Grant	\$6,342,979	\$317,149 (5.0%)	\$6,660,128	The State has met its matching funds obligation for this grant.
2020 Tranche - HAVA Election Security Grant	\$7,133,864	\$1,426,773 (20.0%)	\$8,560,637	SB 21-205 provided spending authority for this match.
2022 Tranche - HAVA Election Security Grant	\$1,172,438	\$234,488 (20.0%)	\$1,406,926	SB 23-214 provided spending authority for this match
2023 Tranche - HAVA Election Security Grant	\$1,172,438	\$234,488 (20.0%)	\$1,406,926	Spending authority for the State match is requested in the Department's FY 2024-25 budget request.
<b>Total</b>	<b>\$15,821,719</b>	<b>\$2,212,898</b>	<b>\$18,034,617</b>	

**Table 5** *The table shows the two installments of the HAVA Election Security grant received from the EAC together with the required state matching funds obligations.*

The Department has used and continues to use these funds to upgrade critical elections infrastructure, including SCORE, the state voter registration database, and to provide elections security training for county and state elections officials. Threats to our elections system are always evolving and the Department must remain vigilant and continue to dedicate resources to ensuring elections security. There is currently significant national attention to elections security, and it is plausible that the Federal Government could provide additional funding in the coming years.

However, with no guarantee that the Federal Government will continue to provide funding, the Department has been cautious about establishing ongoing obligations with money using a one-time source of funding. Instead, the Department has focused most HAVA funds on one-time expenses that have a significant impact in improving elections security throughout the State. 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.

### ***Department of State Cash Fund***

In FY 2022-23, Department of State Cash Fund revenue increased by 12.0 percent relative to FY 2021-22. The Department believes this very high growth rate is an outlier. Based on revenue through the first quarter of FY 2023-24, the Department projects cash fund revenue of \$30.0 million in the current fiscal year, a roughly 3.0 percent decrease from the prior fiscal year. However, the Department projects that, all else equal (i.e., not including any impact from a fee change), revenue will grow by its historical average growth rate of 4.59 percent to approximately \$34.85 million in FY 2024-25.