

Joint Budget Committee



Staff Budget Briefing FY 2025-26

Department of State

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

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November 13, 2024

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ADDITIONAL RESOURCES

Brief summaries of all bills that passed during the 2024 legislative session that had a fiscal impact on this department are available in Appendix A of the annual Appropriations Report: <https://leg.colorado.gov/sites/default/files/fy24-25apprept.pdf>

The online version of the briefing document may be found by searching the budget documents on the General Assembly’s website by visiting leg.colorado.gov/content/budget/budget-documents. Once on the budget documents page, select the name of this department's *Department/Topic*, "Briefing" under *Type*, and ensure that *Start date* and *End date* encompass the date a document was presented to the JBC.

Overview of Department

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

ADMINISTRATION DIVISION

- Provides operational support to the Department, including human resources, finance, office management, communications, and direct support to the Office of the Secretary.

INFORMATION TECHNOLOGY DIVISION

- Provides technical and project management services, systems development, and support for information technology systems in the Department.

ELECTIONS DIVISION

- Administers statewide statutory and constitutional provisions that relate to elections, including the administration of the initiative and referendum process; certifies voting equipment; oversees campaign finance reporting by political candidates and committees; registers lobbyists and monitors the filing of required disclosure reports.
- Implements the provisions of the federal Help America Vote Act (HAVA), including improvements to the administration of federal elections.
- Maintains the State of Colorado Registration and Elections (SCORE) system, the State's computerized statewide voter registration system.

BUSINESS AND LICENSING DIVISION

- Collects, maintains, and provides public access to filings made by businesses and non-profit organizations (e.g. annual reports, articles of incorporation etc.); registers business names, trade names, and trademarks; registers charitable organizations and licenses entities involved in charitable bingo/raffle; licenses and regulates notaries public.
- Compiles and publishes the Code of Colorado Regulations (CCR).
- Oversees the Business Intelligence Center.

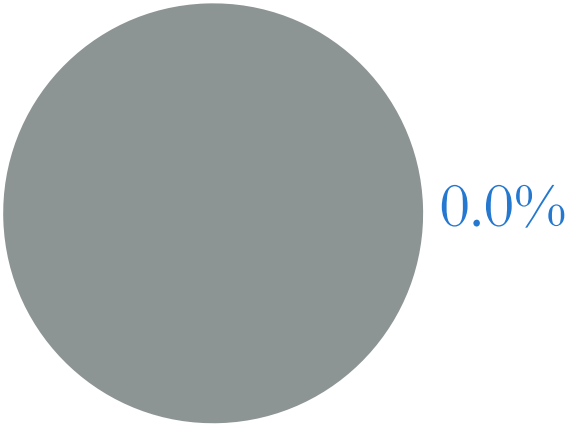
Recent Appropriations

State: Recent Appropriations				
Funding Source	FY 2022-23	FY 2023-24	FY 2024-25	FY 2025-26*
General Fund	\$1,151,651	\$12,835,578	\$2,504,841	\$4,254
Cash Funds	33,953,683	37,255,933	43,698,865	48,056,603
Reappropriated Funds	457,349	791,773	309,604	0
Federal Funds	0		0	0
Total Funds	\$35,562,683	\$50,883,284	\$46,513,310	\$48,060,857
Full Time Equivalent Staff	147.2	156.7	168.7	173.5

*Requested appropriation

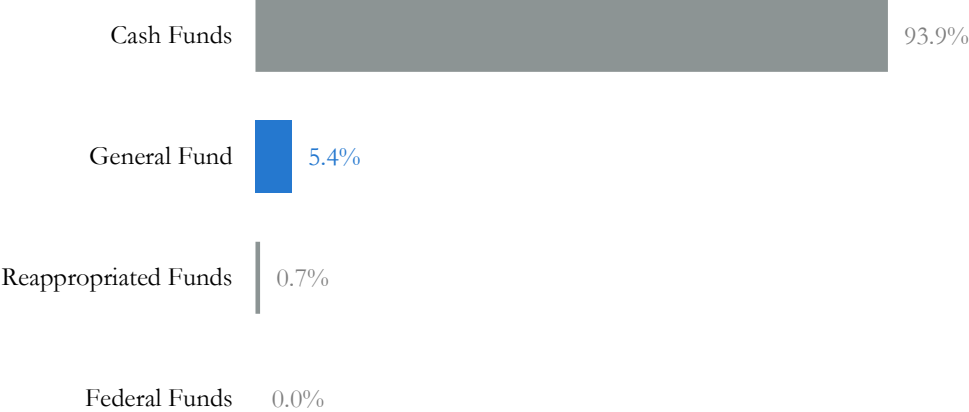
Graphic Overview

Department's Share of Statewide General Fund



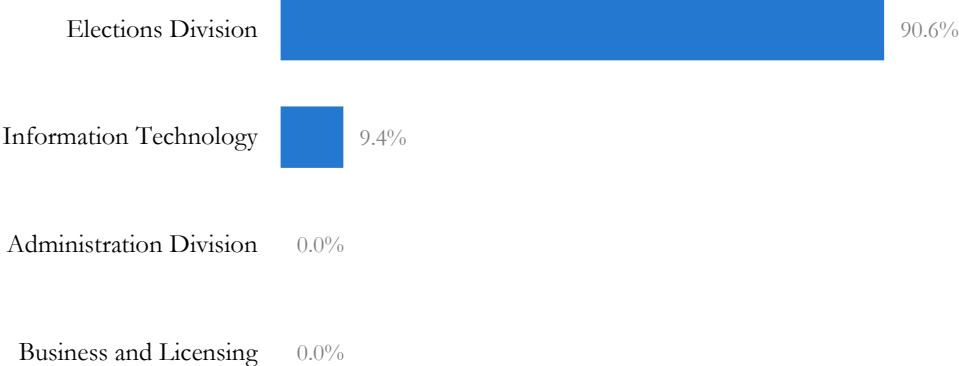
Based on the FY 2024-25 appropriation.

Department Funding Sources



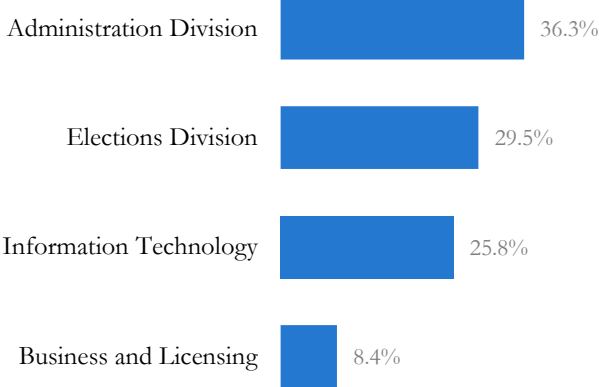
Based on the FY 2024-25 appropriation.

Distribution of General Fund by Division



Based on the FY 2024-25 appropriation.

Distribution of Total Funds by Division



Based on the FY 2024-25 appropriation.

Cash Funds Detail

Department of State Cash Funds Detail				
Fund Name	FY 2024-25 Approp.	Note	Primary Revenue Sources	Primary Uses in Dept.
Department of State Cash Fund	\$38,209,433		Revenue for this fund primarily comes from state business filing fees, and also includes other program fees.	The fund is used for operational expenses throughout the Department.
Electronic Recording Technology Fund	5,479,432	1, 2	The fund source is a uniform county clerk and recorder filing surcharge on all documents.	This fund is continuously appropriated to the Electronic Recording Technology Board for operating purposes.
Federal Elections Assistance Fund	10,000	1, 2	This fund receives federal and state funds appropriated for HAVA-related purposes.	The fund is continuously appropriated to the Department to utilize HAVA funding to improve the administration of federal elections.
Total	\$43,698,865			
1 Not appropriated by the General Assembly. Amounts shown in Long Bill are for informational purposes only.				
2 TABOR exempt.				

Additional Detail for Select Funds

DEPARTMENT OF STATE CASH FUND: The Department of State Cash Fund is the primary fund source for the Department’s operations. The Department is statutorily authorized to set fees at a level that approximates the total costs of operations while also utilizing and maintaining reserves in the fund. More information is provided in the factors driving the budget section below.

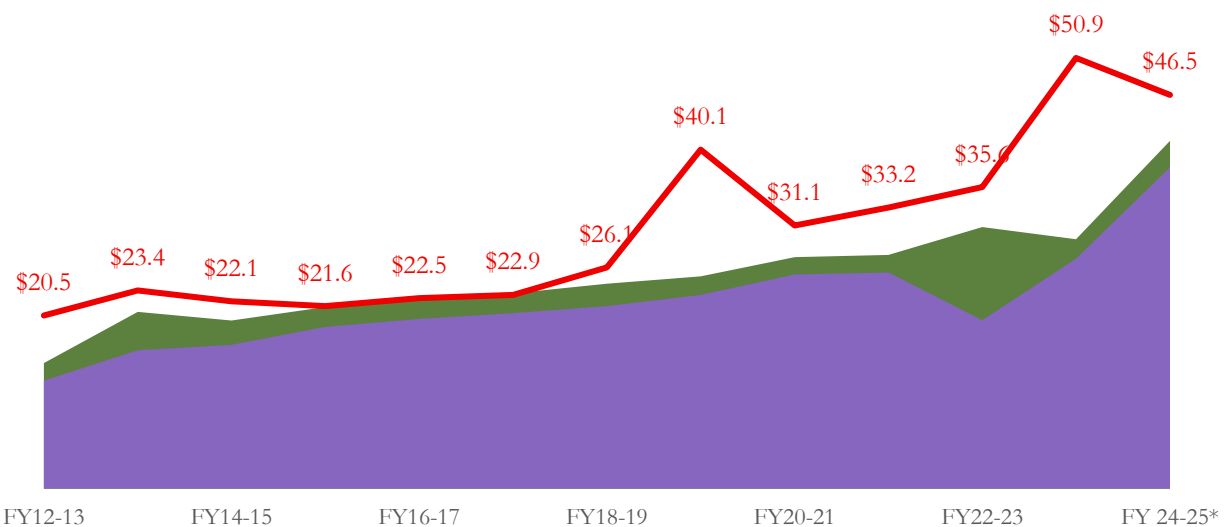
General Factors Driving the Budget

The Department budget is driven by (1) the volume of business filings in a year, (2) department-wide expenses related to the administration of elections, and (3) information technology support of elections and business filing processes.

Business Filing Fees and DOS Cash Fund Revenues

The Department of State (DOS) Cash Fund is the depository for state business filing fees, which account for a majority of the cash fund's revenue. The remainder of the revenues are made up of fees from other programs including bingo-raffle licensing, campaign finance reporting, and the registration of lobbyists and notaries public. The DOS maintains a policy to conduct regular competitiveness reviews when setting fee amounts, and the fee schedule has remained relatively consistent over the last 10 years.

A majority of the **Total Annual DOS Appropriation** comes from **DOS Cash Fund Revenue**, which is largely determined by **Revenue from Business Filing Fees** (Millions).



*Filing fee revenue is lower in FY 2022-23 due to the credit established in H.B. 22-1001 (Reduce Fees for Business Filings) provided to filers of new LLCs and new trade name registrations. In recent sessions, election-related legislation had somewhat increased General Fund appropriations to the Department. However, the largest jump in General Fund appropriations, seen in the graph above in FY 2019-20 and FY 2023-24, comes from local election reimbursement during presidential primary years.

Election Expenditures

A large portion of Departmental expenditures are driven by the costs of administering elections. These costs reflect changes in the population of eligible voters, new election laws, and the variable characteristics of each election cycle. Election expenditures are cyclical and based on the characteristics of the elections occurring during that year. In odd-year elections, ballot initiatives must be TABOR-related and in even-year elections there are no restrictions on

types of initiatives. Even-year elections line up with presidential and gubernatorial elections, which tend to have higher turnout rates, and are also when the federal government makes HAVA (Help America Vote Act) grants available.

Initiatives and Referendums

- The Department funds the verification of signatures on candidate and initiative petitions. Expenditures fluctuate based on the year and number of initiatives on the ballot.

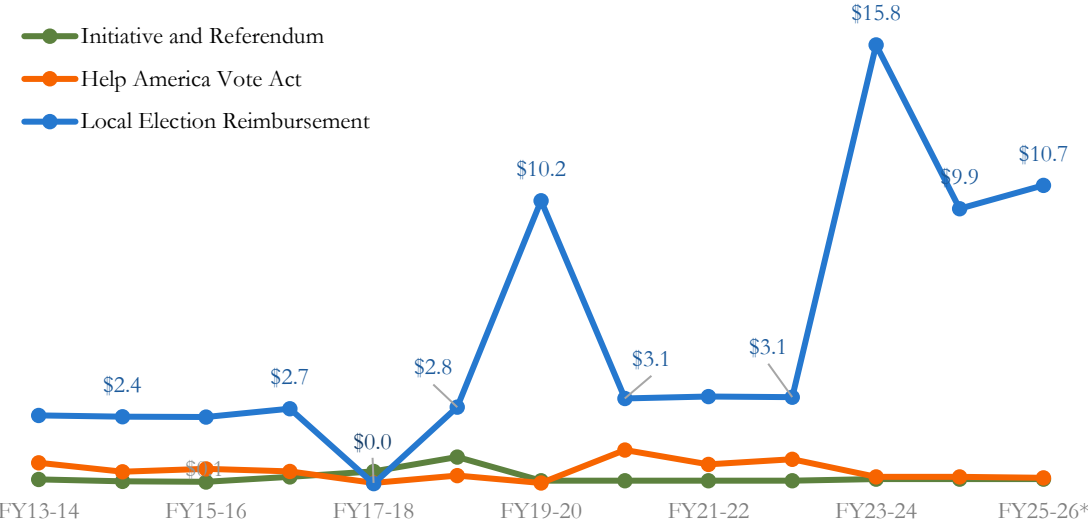
Local Election Reimbursement

- For odd-year elections, the State had reimbursed on a 'per-voter' basis, where costs were driven by the number of eligible voters registered in each county and the reimbursement rate specified in statute. This reimbursement model changed on July 1, 2024, when S.B. 23-276 (Modification to Laws Regarding Elections) went into effect. Under this legislation reimbursement to counties for election costs will be calculated as a percentage of actual direct costs to the county, increasing overall reimbursement to counties.
- The Department reimburses counties for actual direct costs related to presidential primary elections. The funding for these reimbursements comes entirely from the Department of State Cash Fund beginning in FY 2025-26.
- Local election reimbursement costs are estimated based on actual costs for the previous primary election, which are then adjusted to account for inflation and the fact that presidential primaries are roughly 20.0 percent more expensive for counties to conduct.

Help America Vote Act (HAVA) Program

- The State matches federal funding with cash funds to receive HAVA grants. HAVA funding can be used to improve the administration of federal elections, including replacing outdated voting technology, ensuring accessibility for disabled voters, and instituting and maintaining Colorado's statewide voter registration system (SCORE).
- HAVA funding is determined annually based on available federal grants. The Department received federal HAVA grant funding in 2018, 2020, 2022, and 2023.

Department of State Local Election Reimbursement, HAVA, and Initiative and Referendum state expenditures (millions) are cyclical and determined by the characteristics of each election cycle.



*FY 2024-25 data is based on appropriations rather than expenditures. FY 2024-25 data is based on the Department's request.

Information Technology Systems

The Information Technology (IT) Division provides most of the technological support for other divisions in the Department, namely the Elections and Business and Licensing Divisions. The costs of this support are housed in the Hardware/Software Maintenance line item.

The IT Division maintains and supports the business and licensing system for:

- Business filing processes;
- Public records resources; and
- Certification programs.

The Division also maintains elections software for:

- The SCORE system for statewide computerized voter registration and election management;
- Statewide ballot tracking and;
- The TXT2CURE/TXT2SIGN system that enables voters with missing or discrepant signatures, missing identification for mail ballots, or a missing signature on the voter registration application to fix the discrepancy electronically.

Summary of Request

Department of State						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
FY 2024-25 Appropriation						
HB 24-1430 (Long Bill)	45,480,778	2,429,601	42,741,573	309,604	0	161.5
Other legislation	\$1,032,532	\$75,240	\$957,292	\$0	\$0	7.2
Total	\$46,513,310	\$2,504,841	\$43,698,865	\$309,604	\$0	168.7
FY 2025-26 Requested Appropriation						
FY 2024-25 Appropriation	\$46,513,310	\$2,504,841	\$43,698,865	\$309,604	\$0	168.7
R1 2024 HAVA Elections Security Grant Match	200,000	0	200,000	0	0	0.0
R2 Modernizing the IT div budget	0	0	0	0	0	0.0
R3 Fraudulent filings solution	55,033	0	55,033	0	0	1.0
R4 Increase security public meetings	31,048	0	31,048	0	0	0.0
Non-prioritized decision items	-4,948	0	-4,948	0	0	0.0
Annualize prior year actions	1,787,904	-2,500,587	4,598,095	-309,604	0	3.8
Centrally appropriated line items	1,488,176	0	1,488,176	0	0	0.0
Technical adjustments	-1,938,886	0	-1,938,886	0	0	0.0
Indirect cost assessment	-70,780	0	-70,780	0	0	0.0
Total	\$48,060,857	\$4,254	\$48,056,603	\$0	\$0	173.5
Increase/-Decrease	\$1,547,547	-\$2,500,587	\$4,357,738	-\$309,604	\$0	4.8
Percentage Change	3.3%	-99.8%	10.0%	-100.0%	0.0%	0.0

R1 2024 HAVA Election Security Grant State Match: The request includes \$200,000 in one-time DOS Cash Fund spending authority for FY 2025-26 to match the \$1.0 million federal Help America Vote Act (HAVA) grant for 2024. To retain the 2024 HAVA grant, the State must match 20.0 percent of these funds and must have the spending authority by April 10, 2026. This funding is used to support improvements in federal election administration and infrastructure. This includes the provision of grants to counties for physical and cyber security, improvements to the Statewide Colorado Registration and Election (SCORE) system, performing election audits, and cybersecurity improvements. If this request is not approved, the Department is required to return the \$1.0 million in grant funding to the US Election Assistance Commission, as well as accumulated interest.

R2 Modernizing the IT Division Budget: The request includes a budget neutral reorganization of the Department’s Information Technology Division. At present, the Department has three line items for IT operations: Operating Expenses, Hardware/Software Maintenance, and Asset Management. The Department argues that these budgetary categories are outdated, stating that consolidation into a single line item will improve operational flexibility, decrease accounting complexity and bring the department’s budget structure in line with current trends in information technology products and services. Due to this, the Department requests consolidation of these line items into a single “Operating Expenses” line.

R3 Fraudulent Filings Solution: The request includes \$55,033 in cash funds and 1.0 FTE for FY 2025-26 and ongoing for business filing verification. Under H.B. 24-1137 (Implement Fraudulent Filings Group Recommendations), the Department is tasked with developing an alternative residency verification system for ID-deficient agents filing business registrations within Colorado. The Department was directed to meet with stakeholders to assess an alternative verification system due to a late amendment to H.B. 24-1137. Through this process, the Department has identified postal address as the means of verification. Under this plan, the agent will receive correspondence which will direct them to the Department’s website for verification through a QR code or PIN number. The adoption of this method is expected to increase workload through the delivery of letters to registered agents and an associated increase in customer engagement.

R4 Increase Security at Public Hearings and Meetings: The request includes \$31,048 cash fund spending authority for FY 2025-26 and \$37,990 ongoing for increased security at public hearings and meetings. The Department coordinates security for public meeting with the Department of Public Safety (DPS). Colorado State Patrol (CSP), a division of CDPS, provides security for these Department of State meetings and hearings. Historically, the Department of State has been able to absorb the costs for this security through existing appropriations. However, security costs are expected to increase due to anticipated increases in hourly payment to CSP for services in FY 2025-26, as well as an increase in the number of Department meetings requiring uniformed security. The increase in costs for FY 2025-26 is driven by the following:

- H.B. 24-1283 (Secretary of State Review Municipal Campaign Fin. Complaints)
- S.B. 24-210 (Modifications to Election Law) – Creates a hearing process for complaints regarding petitions
- Continuing Legal Education (CLE) course for the public
- Title Board – Increased number and length of Title Board hearings
- Pending changes to General Policies and Administration – Potential rule change will bring a number of hearing processes in-house for the Department.

Non-prioritized decision items: The request includes a net decrease of \$4,948 cash funds for requests that originate in the Department of Personnel.

Non-prioritized decision items						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
NP2 OAC staffing	\$273	\$0	\$273	\$0	\$0	0.0
NP1 Annual fleet vehicle request	-5,221	0	-5,221	0	0	0.0
Total	-\$4,948	\$0	-\$4,948	\$0	\$0	0.0

Annualize prior year actions: The request includes a net increase of \$1.8 million total funds, including a decrease of \$2.5 million General Fund, for the out-year cost of prior year budget actions and legislation.

Annualize prior year actions						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
SB23-276 Modify election law	\$2,544,347	-\$2,190,396	\$5,044,347	-\$309,604	\$0	1.0
TA Even FY HW/SW maint increase	147,000	0	147,000	0	0	0.0
HB24-1137 Fraudulent filings recs	-236,643	0	-236,643	0	0	2.5
HB21-1071 Ranked choice voting nonpartisan elect	-234,951	-234,951	0	0	0	0.0
Annualize HAVA grant funding	-234,488	0	-234,488	0	0	0.0
SB24-072 Voting for confined eligible electors	-167,400	-75,240	-92,160	0	0	0.0
HB24-1283 SOS review municipal campaign fin complaints	-13,675	0	-13,675	0	0	0.1
HB24-1326 Bingo raffle lic sunset review	-12,632	0	-12,632	0	0	0.2
SB24-210 Modification to laws regarding elections	-3,654	0	-3,654	0	0	0.0
Total	\$1,787,904	-\$2,500,587	\$4,598,095	-\$309,604	\$0	3.8

Centrally appropriated line items: The request includes a net increase of \$1.5 million cash funds for centrally appropriated line items, summarized in the table below.

Centrally appropriated line items						
Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Health, life, and dental	\$461,788	\$0	\$461,788	\$0	\$0	0.0
Salary survey	422,995	0	422,995	0	0	0.0
Legal services	300,436	0	300,436	0	0	0.0
AED and SAED adjustment	220,366	0	220,366	0	0	0.0
DPA Document management	137,546	0	137,546	0	0	0.0
Leased space	57,000	0	57,000	0	0	0.0
Step Plan	48,752	0	48,752	0	0	0.0
Risk management & property	10,332	0	10,332	0	0	0.0
Paid Family & Medical Leave Insurance	9,917	0	9,917	0	0	0.0
PERA direct distribution	9,684	0	9,684	0	0	0.0
CORE adjustment	9,083	0	9,083	0	0	0.0
Short-term disability	3,306	0	3,306	0	0	0.0
FY 2024-25 Step Plan	0	0	0	0	0	0.0
Prior year salary survey	0	0	0	0	0	0.0
Payments to OIT	-150,909	0	-150,909	0	0	0.0
ALJ services	-38,638	0	-38,638	0	0	0.0
Workers' compensation	-13,482	0	-13,482	0	0	0.0
Total	\$1,488,176	\$0	\$1,488,176	\$0	\$0	0.0

Technical adjustments: The request includes a \$1.9 million decrease in cash funds to reflect informational adjustments to the balance of the Electronic Recording Technology Fund.

Indirect cost assessment: The request includes net adjustments to indirect costs across all divisions.

Budget Reduction Options

The Executive Budget Request includes no reductions in General Fund for the Department of State, with a base request of \$4,254 General Fund. This issue brief reviews a reduction option and a revenue enhancement identified by staff.

Summary

- The Department of State represents 0.02 percent of total state General Fund appropriations in FY 2024-25, totaling \$2.5M General Fund. The request for FY 2025-26 reduces this appropriation to \$4,254 General Fund.
- The reductions from FY 2024-25 to FY 2025-26 are driven primarily by the election reimbursement costs for S.B. 23-276 (Modifications to Laws Regarding Elections) being shifted from General Fund to the Department of State Cash Fund, in accordance with the fiscal note for this legislation.
- The Executive budget request includes no further reductions to the FY 2025-26 base request.

Recommendation

- Staff recommends that the Department discuss the following options with the Committee in its budget hearing:
 - The potential effects of a transfer of funds from the Department of State Cash Fund to the General Fund, and
 - Refinancing of H.B. 21-1071 (Ranked Choice Voting in Nonpartisan Elections) from the General Fund to the Department of State Cash Fund.

Discussion

Funding History FY 2018-19 to FY 2024-25

The Department of State represents 0.02 percent of total state General Fund appropriations in FY 2024-25. As reflected in the table below, the Department received no General Fund in FY 2018-19, increasing to \$2.5 million in FY 2024-25. Over the same period, the statewide increase in General Fund appropriations was 11.3 percent after adjustments.¹ Concurrently, total funding in this section of the budget, after adjustments, has increased by 40.5 percent.

¹ FY 2024-25 appropriations are adjusted to *exclude* the impact of H.B. 24-1466 (Refinance Federal Coronavirus Recovery Funds) which provided for a one-time decrease of \$587.2 million in General Fund appropriations for FY 2024-25, spread across the Corrections, Human Services, and Judicial Departments. Temporary personal services reductions in these departments were backfilled with federal funds from the American Rescue Plan Act (ARPA).

FY 2018-19 to FY 2024-25 Appropriations Comparison - Adjusted for Inflation					
Fund	FY 2018-19		FY 2024-25 ¹	Increase/ -Decrease after inflation adjustment	
	Nominal Dollars	FY 24-25 Dollars		Amount	Percent
General Fund	\$0	\$0	\$2,504,841	\$2,504,841	N/A
Total Funds	\$26,136,661	\$33,103,044	\$46,513,310	\$13,410,266	40.5%

The growth in General Fund utilization in the Department of State from FY 2018-19 to FY 2024-25 has largely been driven by S.B. 23-276 (Modifications to Laws Regarding Elections), which changed the calculation of reimbursements to counties for election costs. These costs will be paid by the Department of State Cash Fund in FY 2025-26 and beyond.

Budget Requests for General Fund Relief

The budget request includes no proposals for General Fund relief. The Department request for FY 2025-26 includes \$4,254 General Fund.²

Additional Options for JBC Consideration

The table below summarizes options identified by JBC staff that the Committee could consider instead of the options presented in the budget request.

Additional Options for General Fund Relief					
Option	General Fund	Other Funds	Bill? Y/N	Description	
Revenue Enhancements					
Department of State Cash Fund Transfer to GF	\$567,580	-\$567,580	Y	This fund is the primary fund source for the Department of State. It is projected to have a fund balance of \$4,429,354 at the end of FY 2025-26. This is expected to exceed the maximum reserve by \$567,580. Transferring this projected excess reserve may have programmatic and legal impacts.	
Subtotal - Revenue	\$567,580	-\$567,580			
Expenditure Reductions					
Refinance H.B. 21-1071 (RCV in Nonpartisan Elections) [Requires Legislation]	-\$4,254	\$4,254	Y	Under current law, this legislation is funded by General Fund. This option would support the program entirely from the Department of State Cash Fund.	
Subtotal - Expenditures	-\$4,254	\$4,254			
Net General Fund Relief	\$571,834				

Fiscal year 2018-19 appropriations are adjusted for inflation, calculated based on the Legislative Council Staff September 2024 forecast, which reflects an increase in the Denver-Aurora-Lakewood consumer price index of 26.7 percent between FY 2018-19 and FY 2024-25.

² This expenditure is statutorily required to be from the General Fund (Section 24-21-104.56(3), C.R.S.)

Revenue Enhancements

Department of State Cash Fund Transfer to GF [Legislation Required]

Description: Bill to transfer \$567,580 from the Department of State (DOS) Cash Fund to the General Fund.

Key Considerations: This proposal would reduce the balance of the cash fund to its projected maximum reserve for the end of FY 2025-26. The Department has expressed two concerns to staff regarding any proposed transfer from the Department of State Cash Fund to the General Fund: the potential for litigation against the Department and potential negative impacts to the Department's primary cash fund.

Potential NFIB Litigation

The Department believes any transfer of funds from the DOS Cash Fund is likely to trigger additional litigation from the National Federation of Independent Business (NFIB), with whom the Department was involved in litigation from 2014 through 2019. In the 2019 case *Griswold v. National Federation of Independent Businesses (NFIB)*, the Colorado Supreme Court granted summary judgment in favor of the Secretary. At issue in this case was how the Department utilized business filing fees to conduct operations, with the NFIB claiming that rising fees effectively constituted a new tax, rather than a fee. It was suggested that this was a violation of TABOR, since the activities of the Department, especially administration of elections, were not clearly a direct service for the businesses paying them (i.e. fees). The Supreme Court found that changes in fees to the Department did not constitute a change in tax rate, nor did it result in increased revenues to the State. The Department has stated that a transfer is likely to trigger fresh litigation.

The Department notes that the total legal costs during the life of the *NFIB* case were approximately \$140,000. This figure also does not include time expended by senior Department staff, estimated by the Department to be thousands of hours.

Department of State Cash Fund and Election Reimbursement

The Department has expressed uncertainty around the total cost of election reimbursements to counties for S.B. 23-276 (Modifications to Laws Regarding Elections). They have stated that a transfer from the DOS Cash Fund, coupled with higher than expected reimbursements to counties, could necessitate a fee increase for the Department, and that the amount held beyond the maximum reserve is a necessary buffer in case costs greatly exceed estimates for reimbursement.

Presently, the Department is permitted to overexpend its appropriation for election reimbursements by 15.0 percent, which accounts for the uncertainty of actual election costs for counties. If this overexpenditure is necessary, it would result in up to \$1.6 million in additional expenditures, eliminating the excess reserve and reducing the DOS Cash Fund balance to approximately \$4.2 million. Additionally, it is likely to trigger an increase in fees, given the projected cash flow for FY 2025-26 is -\$1.8 million under current conditions.

Staff recommends further discussions with the Department regarding a transfer from the Department of State Cash Fund to the General Fund.

DEPARTMENT OF STATE CASH FUND			
	FY 2023-24 ACTUAL	FY 2024-25 ESTIMATE	FY 2025-26 ESTIMATE
Beginning FY Balance	\$6,556,011	\$3,824,279	\$5,804,831
Revenues	29,486,299	41,090,000	42,870,000
Expenditures	-32,218,031	-38,414,873	-44,683,057
Ending FY Balance without transfer	\$3,824,279	\$6,372,411	\$3,991,774
Transfer Option		-567,580	
Ending FY Balance after transfer		\$5,804,831	

Fee impact: Negative cash flow in future years increases the likelihood that a fee increase will be necessary if a transfer is made.

Expenditure Reductions

Bill to Refinance H.B. 21-1071 [Legislation Required]

Description: Budget option would fund expenditures for H.B. 21-1071 (Ranked Choice Voting in Nonpartisan Elections) from the Department of State Cash Fund, instead of the General Fund.

Key Considerations: The costs for the implementation of H.B. 21-1071 are statutorily required to be paid from a General Fund appropriation (Section 24-21-104.5(3), C.R.S.). For FY 2025-26, this amounts to \$4,254 in expenditures. Staff believes that these costs are absorbable through the Department of State Cash Fund for FY 2025-26, but recommends further discussion with the Department.

Issue: Voting Machine Password Release

Summary

- The Department of State unintentionally leaked the BIOS passwords for voting machines across Colorado. The Department has responded to the security threat to re-secure the potentially threatened machines.
- JBC Staff is working with Department Staff to identify any potential budgetary impacts from the inadvertent disclosure of the BIOS passwords.

Discussion

On October 29, 2024, the Department publicly disclosed a potential security problem regarding the public leak of BIOS passwords to voting machines for a majority of Colorado counties. The leak was caused by a spreadsheet being posted to the Department of State website with a hidden tab, which contained the passwords. The file was posted on June 21, 2024 and removed on October 24, 2024, when the Department was notified of the problem by one of their voting system vendors.

The Department has worked with the Governor's Office of Information Technology to identify and remediate security threats caused by the unintentional release of the BIOS passwords, travelling to 34 counties over 3 days to reset the BIOS passwords. At this time, the leaked passwords are obsolete. In addition to updating the BIOS passwords, the Department has expressed confidence in the security of the voting machines due to redundancies in place. In order for a password to be used to compromise a machine, an individual would also need physical access to the machines, which are physically secured and under 24 hour surveillance. Furthermore, a majority of the machines do not have the onboard capability to be connected to the Internet, and therefore cannot be accessed remotely. At this time, there is no evidence that the leaked BIOS passwords were used to access the machines, according to the decision in the *Libertarian Party of Colorado v. Griswold* case.

Presently, the Department has indicated that there may be increased costs for legal services due to the release of the passwords, but has suggested that securing the voting machines has been managed through existing appropriations. The Department is unsure if the legal costs will exceed the legal services appropriation and may require a supplemental appropriation for FY 2024-25.

Footnotes and Requests for Information

Update on Long Bill Footnotes

The General Assembly includes footnotes in the annual Long Bill to: (a) set forth purposes, conditions, or limitations on an item of appropriation; (b) explain assumptions used in determining a specific amount of an appropriation; or (c) express legislative intent relating to any appropriation. Footnotes to the 2024 Long Bill (H.B. 24-1430) can be found at the end of each departmental section of the bill at <https://leg.colorado.gov/bills/HB24-1430> The Long Bill footnotes relevant to this document are listed below.

107 Department of State, Elections Division, Local Election Reimbursement -- If actual reimbursements to counties required by section 1-5-505.5, C.R.S., exceed the cash funds amount specified in this line item, the Department may spend up to 115.0 percent of the cash funds amount specified to make the required reimbursements.

COMMENT: The Department has not and does not anticipate utilizing this exception for FY 2023-24.

108 Department of State, Elections Division, Local Election Reimbursement -- The Department is only permitted to use General Fund for reimbursement to counties for direct election costs.

Comment: This footnote expresses legislative intent.

109 Department of State, Elections Division, Local Election Reimbursement -- The Department is only permitted to use cash funds for reimbursement to counties for direct election costs or for purposes of election security.

Comment: This footnote expresses legislative intent.

Update on Requests for Information

The Joint Budget Committee annually submits requests for information (RFIs) to executive departments and the judicial branch via letters to the Governor, other elected officials, and the Chief Justice. Each request is associated with one or more specific Long Bill line item(s), and the requests have been prioritized by the Joint Budget Committee as required by Section 2-3-203 (3), C.R.S. Copies of these letters are included as an Appendix in the annual Appropriations Report (Appendix H in the FY 2024-25 Report):

<https://leg.colorado.gov/sites/default/files/fy24-25apprept.pdf>

The RFIs relevant to this document are listed below.

Requests Affecting Multiple Departments

Discuss RFIs affecting multiple or all departments here if applicable.

Department of State Requests

- 1 Department of State, Elections Division, Local Election Reimbursement – The Department is requested to submit a letter addressed to the General Assembly and to the Joint Budget Committee notifying both if, and when, it relies on footnote N to overexpend the Local Election Reimbursement line item authorized by aforementioned footnote to meet statutory requirements of Section 1-5-505.5, C.R.S.

COMMENT: The Department has not and does not anticipate utilizing this exception for FY 2023-24.

- 2 Department of State, Election Division, Local Election Reimbursement – The Department is requested to submit a report of the total annual reported costs for counties to conduct elections and the amount of funding the counties received from coordinated entities related to conducting elections in that year, by November 1st of each fiscal year.

COMMENT: The Department has complied with this request. The Department reports the following:

“The total actual reimbursement for the 2024 Presidential Primary Election was \$1,005,351 (8.74%) less than the estimated reimbursement. Based on the documentation and information provided by counties there are a few reasons for this variance. First, some counties changed print vendors ahead of the election. This change resulted in cost savings for many of those counties. Several counties reported lower than anticipated voter turnout for the election, which resulted in lower costs related to poll workers. Also, the estimate was adjusted based on unaudited self-reported costs from the counties. Following the Presidential Primary Election, all invoices and receipts were audited by Department staff before reimbursement was issued. In the self-reported costs, some counties included purchases or expenses that were not specific to

a particular election and therefore not eligible for reimbursement following review of the documentation.”

- 3 Department of State, Administration Division – The Department is requested to submit a report with its annual budget request on DOS business filing fees and cash fund revenue, including data on total business filings, revenue from business filing fees, and total DOS cash fund revenue.

COMMENT: The Department has complied with this request. Information is reported in the “General Factors Driving the Budget” section of this document.

Department Annual Performance Report

Pursuant to Section 2-7-205 (1)(b), C.R.S., the Department of State is required to publish an **Annual Performance Report** for the *previous state fiscal year* by November 1 of each year. This report is to include a summary of the Department's performance plan and most recent performance evaluation for the designated fiscal year. In addition, pursuant to Section 2-7-204 (3)(a)(I), C.R.S., the Department is required to develop a **Performance Plan** and submit the plan for the *current fiscal year* to the Joint Budget Committee and appropriate Joint Committee of Reference by July 1 of each year.

For consideration by the Joint Budget Committee in prioritizing the Department's FY 2025-26 budget request, the FY 2023-24 Annual Performance Report and the FY 2024-25 Performance Plan can be found at the following link:

<https://www.colorado.gov/pacific/performancemanagement/department-performance-plans>

Appendix A: Numbers Pages

Appendix A details actual expenditures for the last two state fiscal years, the appropriation for the current fiscal year, and the requested appropriation for next fiscal year. This information is listed by line item and fund source.