



# 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 several 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 filings such as business and nonprofit registrations, trade names, secured liens, notary public applications, and bingo and raffle reports. Additionally, the Business and Licensing Division licenses durable medical equipment providers, promotes availability of government data, and makes performing rights society information accessible. 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 election security grants to counties under the program established by SB 22-153 – the Colorado Election Security Act (CESA).<sup>2</sup>

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 develops software 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 elections. Every four years, the Department receives a General Fund appropriation to cover counties' direct costs of conducting the Presidential Primary election (the next such election will take place 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.

<sup>2</sup> §1-7-513.5(7)(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. 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>3</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>3</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 all solicitations and ensures compliance with the Procurement Code and Rules
- Assists with the development of all contracts with financial terms and grant agreements<sup>4</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 of new staff
- 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
- 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
- Provides resources, information and ongoing guidance to staff regarding the Department's response to the public health emergency and other significant events that affect personnel

### eLearning

The eLearning Unit creates and maintains online trainings 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>4</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>5</sup>

The Business Filings Program serves business owners, managers, attorneys, and others. Approximately 1,105,000 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, and Periodic Reports. The Department is also in the midst of a complete re-write 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

### Bingo-Raffle<sup>6</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

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<sup>5</sup> §7-90-301 C.R.S.

<sup>6</sup> §24-21-6 C.R.S.

### Colorado Charitable Solicitations Act<sup>7</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 more than 15,100 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>8</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

### Business Intelligence Center (BIC)<sup>9</sup>

The Business Intelligence Center (BIC) Program engages state agencies, counties, and cities to make public data accessible by putting datasets on the Colorado Information Marketplace (CIM). It supports the one of the only statewide business data analytics challenges in the United States: (<https://gocode.colorado.gov/>). The program is focused on:

- Serving as an online resource to help Colorado businessowners 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), along with a business engagement forum and data analytics challenge.

Since FY 2015-16, the BIC program has had two dedicated line items within the Department's budget, one for personal services costs and another for operating expenses. In addition, the program is authorized by statute to accept and solicit gifts, grants, and donations.<sup>10</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).

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<sup>7</sup> §6-16-101 C.R.S.

<sup>8</sup> §24-21-501 et seq C.R.S.

<sup>9</sup> §24-21-116 C.R.S.

<sup>10</sup> §24-21-116(8) C.R.S.

### Administrative Rules<sup>11</sup>

The Administrative Rules Program is responsible for the authenticated publication of the Code of Colorado Regulations (CCR) and Colorado Register. As of March 31, 2014, it is 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
- Provide consultation and training to agency rule filers

### Durable Medical Equipment (DME)<sup>12</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>13</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>.

## ***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 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 and staff members with direct responsibility for conducting elections are required to complete the Colorado Election Official certification program within two years 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, 361 Colorado election officials are certified, and 19 officials are working to complete initial certification. The program was strengthened in SB 22-153, the Colorado

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<sup>11</sup> §24-2-103 C.R.S.

<sup>12</sup> §24-21-115 C.R.S.

<sup>13</sup> §6-13-102 C.R.S.

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>14</sup>, statutes<sup>15</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 assist 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>16</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 and coordinating rulemaking to incorporate legislative changes. The program is also responsible for managing grants to the counties for HAVA funds and state funds, including those authorized under SB 22-153 to implement keyboard access control and video surveillance of areas in which voting systems components are used or stored in the

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<sup>14</sup> Article XXVIII of the Constitution of Colorado

<sup>15</sup> Title 1, Article 45 C.R.S. – Fair Campaign Practices Act

<sup>16</sup> Article XXVII of the Constitution of Colorado, Title 1, Article 45, C.R.S., and 8-CCR 1505-6

county facility. 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 analyze and 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.

#### Elections Security

The Rapid Response Election Security Cyber Unit (RESCU), a newly formed team funded by federal HAVA Election Security funds and the State's required matching funds, works to protect Colorado's elections from cyber-attacks, foreign interference, and disinformation campaigns. 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 Department's communications team to work to increase Coloradan's resilience to disinformation about the electoral process by highlighting trusted information through public engagement and building a broad amplification network of trusted voices.

#### ***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>17</sup> software development
- Development database design, support, and development
- Production database support
- Software quality assurance
- Software configuration management
- Website design and support
- 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.
- 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; Windows-based thin clients, desktops, and laptops; agency data center environmental systems)
- Office hardware (printers, scanners, monitors, etc.)
- Help Desk for internal agency personnel
- Agency disaster recovery and continuity of business

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<sup>17</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).

## ***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>18</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.<sup>19</sup> In pursuit of its mission, the board uses revenue from a \$2 per document surcharge on all 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.

## **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>20</sup> reporting are organized by division and provided below.

### ***Administration Division***

Goal: Use multiple eLearning technologies to meet the Department's internal and external learning needs

<b>Performance Measure</b>		<b>FY 2020-21</b>	<b>FY 2021-22</b>
Number of eLearning videos created	Target	18	29
	Actual	26	36
Number of interactive courses enhanced with updated templates and features	Target	3	5
	Actual	4	6

The eLearning program works with Department staff to develop interactive online training courses and video tutorials. The public can access these resources anytime, outside of a traditional classroom. As the catalog grows, the program also updates existing courses to keep them accurate and engaging and develops short videos to enhance traditional interactive eLearning courses. In addition, the Department continues to leverage the full capabilities of available learning management systems to improve the user experience and increase usage.

Goal: Improve the Department's ability to effectively and efficiently complete most financial transactions in a remote work environment

<b>Performance Measure</b>		<b>FY 2020-21</b>	<b>FY 2021-22</b>
Proportion of invoices sent to Finance inbox	Target	85%	95%
	Actual	90%	90%

The Department continues to prioritize streamlining processes related to financial transactions whenever possible. As part of this improvement, the finance unit has inserted language into all contracts and purchase

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<sup>18</sup> §24-21-404(1)(a) C.R.S.

<sup>19</sup> §24-21-404(2)(a)(II) C.R.S.

<sup>20</sup> §2-7-205 C.R.S.

orders directing vendors to send invoices to the Finance mailbox, instead of to individual users. Including the finance team directly allows for a quicker and more efficient process and improves communication with vendors. The Department did not meet the goal of having 95% of invoices sent to the Finance inbox in FY 2021-22. While language directing vendors to send invoices electronically to the Finance mailbox has been consistently included in contracts and purchase orders, some vendors continue to only email invoices to program staff or to send hard copy invoices. While the Finance Unit likely could persuade additional vendors to change their practices by delaying or withholding payment until the invoice were submitted to the Finance mailbox, such obstinate, bureaucratic behavior is inefficient and is not in the spirit of working cooperatively with vendors to serve Coloradans. The Finance Unit will continue to work towards this goal with vendors and program staff in the coming year.

***Business and Licensing Division***

Goal: Increase customer satisfaction through improved system usability and efficiency.

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

While the past two years were challenging due to the global COVID-19 pandemic, as it related to Bingo-Raffle quarterly reports, an opportunity to increase our online filing adoption rate presented itself. We were able to connect with paper filers, share with them our reduced ability to process paper filings due to remote working conditions, communicate to them not only the ease of online filing but also the benefits they could realize by shifting to online (lower filing fees and less time dealing with mail turnaround time), and ultimately assist them in making the transition. As the state began to reopen, adoption rates remained consistent with very little recidivism. As FY22-23 progresses, we have implemented additional high-touch strategies for late adopters of electronic filing and anticipate moving incrementally closer to 100% participation.

Goal: Increase eLearning modules on the SoS platform to improve customer satisfaction and compliance.

Performance Measure		FY 2021-22
Add/update eLearning modules	Target	44
	Actual	45

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 has developed over 40 education/training offerings on a wide range of topics. Many eLearning opportunities are suggested from feedback received by the Division’s Customer Support Services (CSS) team. The Division has even trained staff in course development in order to amplify the Department’s resources. The Division leverages the eLearning platform to provide not only training but certification modules that can be accessed from anywhere in the state with an internet connection any time a customer wants to get a given certification. As FY22 ends, we exceeded our goal of 44 modules, by publishing a 45<sup>th</sup> aimed at further educating bingo raffle filers on the benefits of online filing. Additionally, we are focusing resources on internal modules designed to refresh our frontline staff on a number of topics, thus providing an even better customer experience.

## ***Elections Division***

### Goal: Effective Support Training and Guidance to Counties

<b>Performance Measure</b>		<b>FY 2019-20</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>
Number of consultative visits to Colorado counties by Department staff	Target	180	10	95
	Actual	38 <sup>21</sup>	60 <sup>22</sup>	40 <sup>23</sup>
County officials currently certified by Secretary of State	Target	375	400	375
	Actual	331	332	361
Online courses for Election Official Certification credit	Target	16	16	19
	Actual	16	17	17

The Elections Division provides support to elections staff in all Colorado counties. The division and county staff must work together closely in order to effectively and efficiently execute elections. To solidify and improve the strength of this partnership, the division aims to provide high level technical and functional support to all elections officials and staff required to use the SCORE system. Working collaboratively with the counties, the division will continue to enhance training and support through expanded online offerings, consultative visits with county staff, and collaboration with the Colorado County Clerks' Association (CCCA).

### Goal: Expand Elections Public Outreach

<b>Performance Measure</b>		<b>FY 2019-20</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>
Online Voter Registration (OLVR) new registrants	Target	65,000	41,000	40,000
	Actual	75,280	114,626	15,888 <sup>24</sup>
OLVR updates	Target	150,000	225,000	115,000
	Actual	225,221	470,116	138,741
Number of Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) ballots accessed online	Target	40,000	25,000	10,000
	Actual	57,450	22,913	11,333
Number of total UOCAVA voters issued a ballot in November Election	Target	30,500	38,000	27,000
	Actual: Coordinated/ General	26,981	38,370	38,373
	Actual: Presidential Primary	27,967		
	Actual: State Primary	26,739		35,290
	<i>Actual: Grand Total</i>	<i>81,687</i>	<i>38,370</i>	<i>75,633</i>
Number of Voter Registration Drives using OLVR to register new voters	Target	80	120	85
	Actual	102	80 <sup>25</sup>	60
Number of mailings (Electronic Registration Information Center (ERIC))	Target	0	700,000	0
	Actual	0	677,855	0
	Target	15	12	15

<sup>21</sup> Travel during the second half of FY 2019-20 was restricted due to COVID-19 pandemic.

<sup>22</sup> Travel during FY 2020-21 was restricted due to the COVID-19 pandemic.

<sup>23</sup> Travel continued to be restricted in FY2021-22 due to the COVID-19 pandemic

<sup>24</sup> The division attributes new and updated OLVR Actual numbers are significantly lower than projected because of the success of Automatic Voter Registration (AVR) implementation.

<sup>25</sup> In-person voter registration activities were reduced during FY 2020-21 due to the COVID-19 pandemic.

Performance Measure		FY 2019-20	FY 2020-21	FY 2021-22
Number of schools receiving the Eliza Pickrell Routt Award for registering 85% of senior class	Actual	10 <sup>26</sup>	3 <sup>27</sup>	2 <sup>28</sup>

The Elections Division is constantly striving to improve the voter registration, campaign and political finance filer, voter registration drive, and UOCAVA voter experiences and to provide more and better-quality information.

Goal: Continue to improve Risk-Limiting Audit (RLA) process to make it more efficient, reduce erroneous discrepancies, and increase public transparency

Performance Measure		FY 2019-20	FY 2020-21	FY 2021-22
Elections in which RLA Used	Target	3	1	2
	Actual	3	1	2
Total Contests Audited	Target	135,399	172,724	169,419
	Actual	123,598	234,333	179,424
Total Audited Contests with Zero Discrepancies	Target	135,142	172,682	165,300
	Actual	121,670	234,032	179,297

Colorado implemented a first in the nation RLA of election results following the 2017 Coordinated Election. A risk-limiting audit is a type of post-election audit that provides strong statistical evidence that the election outcome is right – that the apparent contest winner actually won – and has a high probability of correcting a wrong outcome. Following the successful statewide implementation in 2017, Colorado counties conduct a risk-limiting audit following every coordinated, primary, and general election. Since the initial RLA, the Elections Division is working to improve the nascent RLA software application and to issue timely RLA reports to ensure sufficient transparency into the RLA results and procedures.

### ***Information Technology Division***

Goal: Improve Visibility on Online Service Delivery to Department

Performance Measure		FY 2019-20	FY 2020-21	FY 2021-22
Percentage of major change activities communicated to business units	Target	100%	100%	100%
	Actual	100%	100%	100%
Percentage of web service outages communicated to office	Target	95%	95%	95%
	Actual	93.3%	100%	100%

The IT Division strives to provide timely insight into online service delivery metrics to Department staff. To achieve this, the division is working on enhancing its methods of providing customer support to business units throughout the Department in order to ensure effective response times. In addition, the division is working to improve communications with business units throughout the Department regarding support and expectations with a catalog of prioritized projects and services. In addition, the division is working to execute on the communications plan for major system changes.

<sup>26</sup> The Department rebooted the program in FY2019-20, but COVID-19 affected school's registration efforts.

<sup>27</sup> As a result of the COVID-19 pandemic, many schools used remote learning during FY 2020-21. Consequently, there was a reduction in school registration activities.

<sup>28</sup> School registration activities remained low in FY 2021-22 as schools transitioned back to in-person learning.

Goal: Enhance Department's Technology Advantage

Performance Measure		FY 2019-20	FY 2020-21	FY 2021-22
Reduce the number of tracking systems	Target	4	4	4
	Actual	7	5	5
Number of business unit SharePoint environments established	Target	25	30	30
	Actual	30	38	37
Percent of devices being tracked against current compatible software releases/licenses	Target	85%	85%	85%
	Actual	85%	85%	85%

The IT Division is working to execute upon prioritized Department projects while simultaneously continuing work on ongoing projects. To achieve this, the division is working on increasing the visibility of work in progress and unplanned work. It is also improving deployment of collaborative environments for each business unit, enabling web applications to be integrated with diagnostic tools to help troubleshoot issues, and keeping equipment up-to-date with current compatible software releases (current compatible production release minus one). In addition, the division is continuing its efforts to consolidate test management tools and reducing the number of old development licenses that are no longer being used. The division has deployed a new activity and project tracking platform to improve visibility on division projects and IT priorities. The division has also migrated internal email and office productivity software platforms to cloud-based commercial offerings.

Goal: Enhance Department's Security Advantage

Performance Measure		FY 2019-20	FY 2020-21	FY 2021-22
Number of change management board reviews conducted	Target	50	50	50
	Actual	50	50	50
Percentage of critical vulnerabilities closed within time expectations	Target	100%	100%	100%
	Actual	100%	100%	100%

Colorado is regarded as a leader in security awareness and practices. The IT Division seeks to maintain and grow the state's leadership profile. In pursuit of this goal, the division continues to participate in and to lead national efforts to improve information sharing and incident response processes under the Department of Homeland Security's "Critical Infrastructure" designation. The Department also is focused on fulfilling its promise to counties to be an effective partner in cybersecurity events and incidents, and to build and enhance partnerships with federal, state, and local government entities in the area of cybersecurity.

Goal: Enhance Department's Resource Management Advantage

Performance Measure		FY 2019-20	FY 2020-21	FY 2021-22
Percentage of applications with skilled backup support	Target	95%	95%	95%
	Actual	92%	95%	100%

The IT Division seeks to enhance the Department's Resource Management Advantage. This goal includes focusing on specific areas of improvement in our division's technology foundations, providing effective employee training on new technologies, and adapting and evolving to support new flexible workplace options for the Department. The division is implementing new, more secure technologies to enforce system access controls and is focused on building continuous integration and continuous delivery practices into our software development lifecycle.

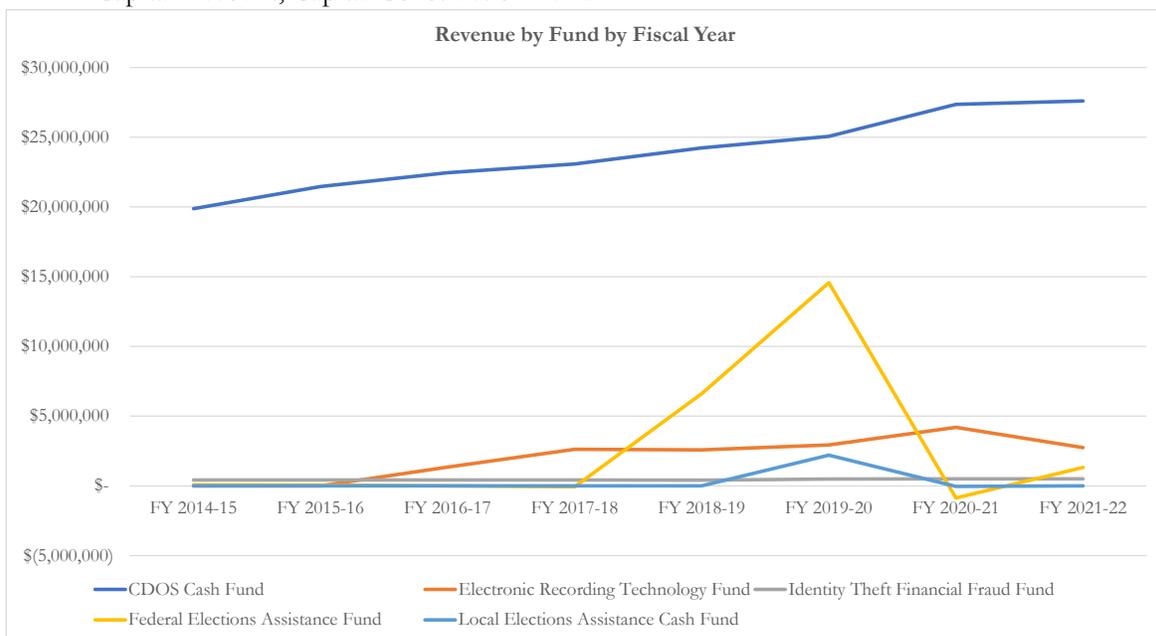
The Performance Measure Number of up-to-date SOPs published has been removed. The IT Division is moving away from individual SOPs as a measure of coverage for common tasks to tools like Confluence as a repository for storing and preserving knowledge.

## Financial Structure

### Overview

The Department’s budget is structured around the four divisions. With the exception of Document Management<sup>29</sup>, which is the Elections Division section of the Long Bill, all common policy line items are under the Administration Division. In FY 2022-23, the Department’s expenses are expected to be in six funds:

- Department of State Cash Fund<sup>30</sup>
- Electronic Recording Technology Fund<sup>31</sup>
- Federal Elections Assistance Fund (a.k.a., the HAVA Fund) <sup>32</sup>
- General Fund<sup>33</sup>
- Identity Theft Financial Fraud Fund<sup>34</sup>
- IT Capital Account, Capital Construction Fund<sup>35</sup>



**Figure 1** The chart shows revenue by fund by fiscal year for FY 2014-15 through FY 2021-22, 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 has been adjusted to eliminate the impact of the non-cash GASB 87 lease accounting entry to ensure year-to-year comparability of the data.

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.

<sup>29</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>30</sup> §24-21-104(3)(b) C.R.S.

<sup>31</sup> The Electronic Recording Technology Board and Fund were created by SB16-115 during the 2016 Legislative Session. §24-21-404(1)(a) C.R.S.

<sup>32</sup> §1-1.5-106(1)(a) C.R.S.

<sup>33</sup> §24-75-201 C.R.S.

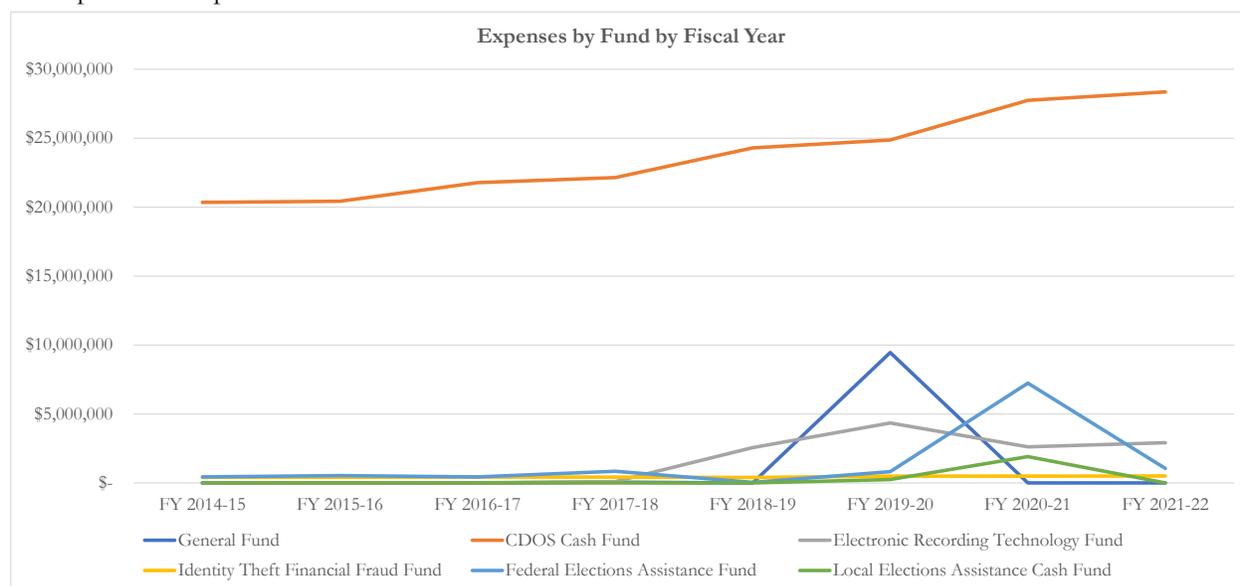
<sup>34</sup> §24-33.5-1707(1)(a) C.R.S.

<sup>35</sup> §24-75-302(3.7) C.R.S.

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 by fund by fiscal year.

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 2021-22, 86.4 percent of all Department expenses and 85.8 percent of all Department revenue was recorded in the CDOS Cash Fund.

The Electronic Recording Technology Board (ERTB)<sup>36</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 8.5 percent of all Department revenue and 8.9 percent of all Department expenses in FY 2021-22.



**Figure 2** The chart shows expenses by fund by fiscal year for FY 2014-15 through FY 2021-22, the eight most recently completed fiscal years. As the chart illustrates, the majority of the Department’s expenditures are in the Department of State Cash Fund.

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 funds. The Department is required to report regularly to the EAC on these expenses. The Federal Elections Assistance Fund currently does not include required state matching funds and these expenses were instead paid from the CDOS Cash Fund. However, the 2022 tranche of HAVA Election Security Grant funds received by the Department require that the state matching funds, once appropriated, must accrue interest and be recorded in the Federal Elections Assistance Fund. Therefore, the Department’s R-1 2022 HAVA Election Security Grant State Match decision item for the matching funds requests the full amount be transferred from the CDOS Cash Fund to the Federal Elections Assistance Fund in FY 2023-24. In FY 2021-22, 3.2 percent of all Department expenses and 4.1 percent of all revenue involved the Federal

<sup>36</sup> §24-21-401 et seq C.R.S.

Elections Assistance Fund. The Department has an outstanding matching funds requirement on the 2020 installment of its HAVA Election Security Grant. The funds for this match are appropriated from the CDOS Cash Fund and the Department has until December 2024 to fully meet the matching funds requirement. Please see footnote 102 in SB 21-205 for details on the multiyear appropriation for the State's matching funds requirement.

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.

HB19-1278 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>37</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 plans to expend \$1.0 million in General Fund money in security grants to counties as a result of the program created in SB 22-153 the Colorado Election Security Act (CESA).

### ***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.

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 MIPS project will replace two existing systems: TRACER, the Campaign and Political Finance Disclosure system and the Lobbyist Registration system. The Department is developing a Request for Proposals (RFP) for the software licensing and development required for the MIPS system and expects to incur the first expenses towards the project in FY 2022-23.

### ***Long-Term Debt Obligations***

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

## **Financial Forecast**

### **Revenue Drivers**

In FY 2022-23 the Department expects to have revenue primarily in four funds. The key drivers of revenue vary by fund as illustrated in Table 1.

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<sup>37</sup> §24-21-104.9(6) C.R.S.

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>• HB 22-1001 General Fund transfer to support select business fee reductions</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 2022-23.

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 2021-22, the CDOS Cash Fund had only modest, 0.9 percent growth relative to FY 2020-21.

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>38</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 resulting from these filing fee credits. Based upon data from the first quarter of FY 2022-23, the Department has seen growth in business filings revenue from filing fees that were not reduced and projects approximately \$31.12 million in CDOS Cash Fund revenue in FY 2022-23, inclusive of the HB 22-1001 transfer.

Looking ahead to FY 2023-24, the Department projects that filing fee revenue will continue to grow at its historical long-term average rate of 4.59 percent. This is based upon the expectation that the fees for new LLC filings and new trade names will revert to their pre-reduction levels on or before July 1, 2023. Total CDOS Cash Fund revenue is projected at approximately \$32.17 million for FY 2023-24. The macroeconomy continues to be unsettled by high levels of inflation, rising interest rates, and structural changes resulting from the disruptive force of the COVID-19 pandemic and the responses of the government and private sector to the pandemic. Consequently, there is a greater uncertainty in this estimate than in an average year.

### Expense Drivers

As previously discussed, in FY 2022-23 the Department expects to have expenses primarily in five funds. The key drivers of expenses for each fund are outlined in the table below.

<sup>38</sup> <https://www.coloradosos.gov/pubs/newsRoom/pressReleases/2022/PR20220701BusinessFees.html>

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>39</sup> accounted for approximately 11.1 percent of the Department’s FY 2021-22 cash fund expenses</li> <li>• Office rent – approximately 3.6 percent of FY 2020-21 expenses</li> <li>• State matching funds for federal grants, approximately 2.5 percent of FY 2021-22 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>
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>• SB 22-135 CESA Grants to counties</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>

**Table 2** The table highlights key expense drivers for each of the four funds in which the Department operates in FY 2022-23.

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 \$2.94 million in FY 2023-24. The six prioritized decision items are:

- R-1: 2022 HAVA Election Security Grant State Match
- R-2: Digital Communications and Public Awareness
- R-3: Website Modernization and Technical Development Capacity
- R-4: Elections Data and Investigations Enhancement
- R-5: Modernizing Administration to Best Serve Customers
- R-6: Improved Oversight of Charity Solicitations and Registered Charities

Greater detail on each of these requests for spending authority is detailed in the narratives accompanying the Schedule 13s in the Department’s FY 2023-24 Budget Request.

<sup>39</sup> §1-5-505.5 C.R.S.

As illustrated in Table 2, statutory Local Election Reimbursement payments to counties<sup>40</sup> accounted for approximately 11.1 percent of the Department's FY 2021-22 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, the Department is required by statute<sup>41</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 2021-22, the Department expended approximately \$700,000 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 2022 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 2023-24 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>42</sup> The Department expects filings growth to revert to its pre-pandemic long-term average growth in FY 2022-23 and beyond.

The long-term average growth in filing fee revenue is between 4.0 -6.0 percent per year. This filing volume growth has provided the Department with the funding required to meet expenses increases driven by technology improvements, new legislative requirements, and inflation while leaving fees largely unchanged. Year-over-year inflation, as measured by the Consumer Price Index for All Urban Consumers for the Denver-Aurora-Lakewood statistical area, was 7.7 percent in September 2022. Should this high rate of inflation continue, growth in the volume of filings alone will be insufficient to meet the Department's increasing expenses and the Department will need to contemplate increasing fees in the future.

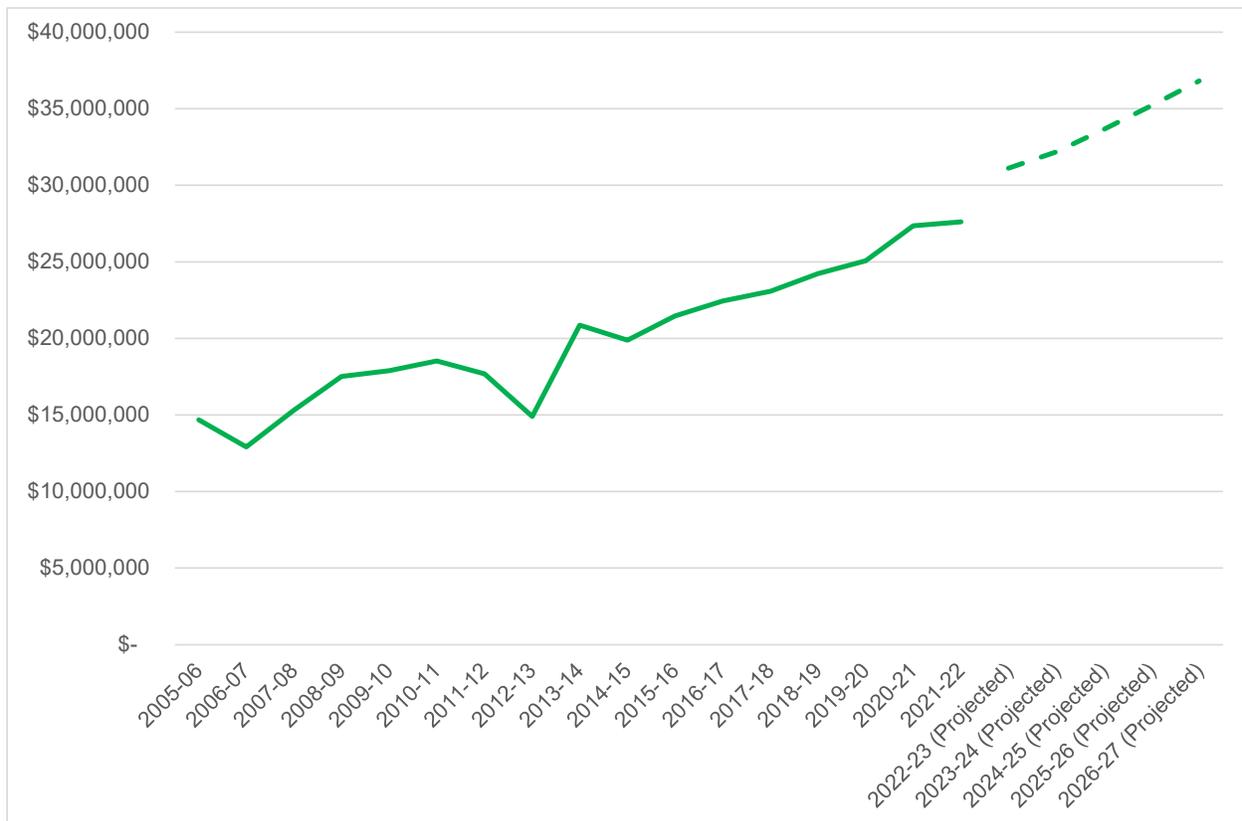
The Department projects CDOS Cash Fund revenue of approximately \$31.12 million in FY 2022-23 as shown in Figure 3 on the next page.

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<sup>40</sup> §1-5-505.5 C.R.S.

<sup>41</sup> §24-21-104.5(2) C.R.S.

<sup>42</sup> This calculation excludes the non-cash revenue entry in FY 2021-22 related to compliance with GASB Statement 87 on lease accounting.



**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). 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>43</sup> These funds are retained in the Federal Elections Assistance Fund.

In calendar years 2018, 2020, and 2022 the Department received three additional tranches of HAVA Election Security funds from the Election Assistance Commission (EAC). These grants are shown in Table 3 below. The Department has met the state matching funds requirement for the 2018 installment and the General Assembly approved the spending authority for the 2020 installment in the 2021 Session Long Bill (SB 21-205). The Department has requested the spending authority for the \$234,488 in matching funds required by the 2022 tranche as part of its FY 2023-24 budget request. In addition, the Department has approximately \$340,000 in federal funding remaining available from a HAVA Title II Grant received over 15 years ago that it plans to expend by September 30, 2023.

Grant Name	Federal Award Amount	State Match	Total Funding	Notes
2018 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 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 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 2023-24 budget request.
<b>Total</b>	<b>\$14,649,281</b>	<b>\$1,978,410</b>	<b>\$16,627,691</b>	

**Table 3** 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 expended approximately \$2.7 million of the Election Security cumulative federal award amount.

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.

<sup>43</sup> §24-21-104.7 C.R.S.

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

In FY 2020-21, revenue increased in the Department of State Cash Fund by over nine percent relative to FY 2019-20. Increases in new business filings and annual business registration renewals were key to this growth in FY 2020-21. In contrast, in FY 2021-22, revenue growth was flat at less than one percent. The Department expects that its revenue growth will return to its historical long-term average in FY 2022-23 and beyond.