



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number: LLS 21-0155 **Date:** July 9, 2021
Prime Sponsors: Sen. Fenberg; Gonzales **Bill Status:** Signed into Law
Rep. Lontine; Caraveo **Fiscal Analyst:** Sonia Hatfield | 303-866-4785
Sonia.Hatfield@state.co.us

Bill Topic: **ELECTIONS & VOTING**

Summary of Fiscal Impact:

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input checked="" type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

This bill makes modifications to a number of election provisions. It will increase state and local expenditure, and may increase state revenue, on an ongoing basis.

Appropriation Summary: For FY 2021-22, this bill includes an appropriation of \$306,500 to the Secretary of State.

Fiscal Note Status: This fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under SB 21-250

		Budget Year FY 2021-22	Out Year FY 2022-23	Out Year FY 2024-25
Revenue	Cash Fund	\$306,500	\$60,000	\$110,000
Expenditures	Cash Fund	\$306,500	\$60,000	\$110,000
Transfers		-	-	-
TABOR Refund	General Fund	\$306,500	\$60,000	\$110,000

Summary of Legislation

This bill modifies and clarifies state and local election code, including provisions related to voter registration, party affiliation, ballot access, and the conduct of recalls. Among its many changes, this bill:

- requires the Secretary of State and the county clerks to make modifications to online systems and forms to allow for registration using an electors last four digits of their Social Security number;
- changes various deadlines related to affiliation from 29 to 22 days;
- sets new requirements for recall elections and petitions;
- repeals the ability of an unaffiliated candidate for president of the US to be nominated by paying a fee;
- changes requirements for voter service and polling centers and drop boxes;
- adds requirements for institutions of higher education related to notifying enrolled students about voting information and providing data to the Department of State;
- requires certain counties to report presidential primary results by precinct; and
- requires the Department of Health Care Policy and Financing (HCPF) to regularly provide certain data to the SOS about changes in a voter's name or address, which the SOS must forward to the appropriate county clerk.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. This bill creates the new offense of a recall committee member failing to forward a voter's request to remove their signature from a recall petition, an unclassified elections misdemeanor punishable by a fine of up to \$1,000 and/or imprisonment in a county jail up to one year. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of tampering with a municipal initiative or referendum petition, a class 2 misdemeanor, as a comparable crime. From 2018 to 2020, zero offenders have been convicted and sentenced for this existing offense; therefore, the fiscal note assumes that there will be minimal or no additional case filings or convictions for the new offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

This bill may increase cash fund revenue to the Secretary of State’s Office (SOS) by up to \$306,500 in FY 2021-22. The revenue is primarily from business filing fees, which are deposited into the Department of State Cash Fund. This additional revenue is subject to TABOR.

**Table 2
Revenue Under SB 21-250**

	FY 2021-22	FY 2022-23	FY 2024-25
Department of State			
Businesses and Professions Fees	\$306,500	\$60,000	\$125,000
Unaffiliated Candidate Filing Fees	-	-	(\$15,000)
Total Cost	\$306,500	\$60,000	\$110,000

Fee impact on businesses and professions. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Under current law, the SOS is authorized to adjust fees so that the revenue generated approximates its direct and indirect costs. The SOS is primarily funded through business filing fees. To cover the costs described in the State Expenditures section below, fees may need to be raised to cover all or some of the costs of this bill. The fees affected and the actual amount of fee charges will be set administratively by the SOS based on cash fund balance, total program cost, and the estimated number of professional activities subject to fees.

Fee impact on presidential candidates. In addition, starting in the next presidential election year and in every following presidential election year, this bill will decrease state revenue by approximately \$15,000 to the Department of State Cash Fund. This bill repeals the ability of unaffiliated candidates for president to access the ballot by filing a \$1,000 fee. Based on prior data, this fiscal note assumes approximately 15 unaffiliated candidates pay this fee every presidential election.

State Expenditures

This bill will increase state expenditures in the SOS by \$306,500 in FY 2021-22, by \$60,000 in non-presidential election years and by \$110,000 in presidential election years, paid from the Department of State Cash Fund. It will also minimally increase expenditures and workload in institutions of higher education, HCPF, the Department of Revenue (DOR), and the Judicial Department. These costs are displayed in Table 3 and described below.

**Table 3
Expenditures Under SB 21-250**

	FY 2021-22	FY 2022-23	FY 2024-25
Department of State			
Computer Programming	\$253,000	-	
E-Submission Signature Setup	\$23,500	-	
Software Licenses	\$30,000	\$60,000	\$60,000
Integrated Document Solutions Group (DPA)	-	-	\$50,000
Total Cost	\$306,500	\$60,000	\$110,000

Department of State. This bill will require the SOS to make changes to SCORE, the online voter registration database, and the ballot access database. This work will require 2,220 hours of computer programming. The bill will also require new software licenses, and an increase in work contracted to the Department of Personnel and Administration.

- **Changes to SCORE.** The SOS will need to create a new voter notification for instructing voters on how to add a signature to their voter file. The SOS will also need the ability to tag each voter record in SCORE that has been automatically registered, create a new export capability to make this information public, and update the system to accommodate new information provided by HCPF. In addition, the petition module will need to be changed to accommodate new correspondence requirements and the change of affiliation deadline.
- **Changes to the online voter registration system.** The online voter registration system will need to be updated to create a new workflow to allow voters to register with only the last four digits of their Social Security number, to allow voters to upload a signature when they register online, and to connect directly with the Social Security Administration to confirm identity through the last four digits of an elector's Social Security number. Additional programming may be needed to connect directly with the Department of Revenue to validate applications.
- **Changes to the ballot access database.** This database must be updated to allow for precinct level reporting in presidential primaries for some counties.
- **Electronic signature submission.** The SOS must set up the ability for a voter to submit their signature to the county clerk electronically. The initial setup would cost \$23,500, and \$30,000 in licensing and maintenance for the first year. Licensing and maintenance would cost \$60,000 annually in ongoing years.
- **Integrated Documents Solutions Group.** The SOS uses the Integrated Documents Solutions Group within the Department of Personnel and Administration for scanning and data entry services. This bill would require unaffiliated presidential candidates to get on the ballot by circulating a petition, which would require an increase in work contracted to this group. Assuming that three candidates pursue this every presidential election, this would be a cost of \$50,000 every four years. In addition, this bill may change the number of signatures processed by the group. This work is billed to the Department of State Cash Fund.

Higher Education Institutions. The bill may minimally increase workload for institutions of higher education to provide enrolled students with information on voting, and for providing data to the SOS to determine voter service and polling centers and drop-off locations.

Department of Health Care Policy and Financing. This bill requires HCPF to provide the SOS with information on voter name and address changes, to the extent allowed by federal law. This may minimally increase workload, however no additional appropriation is required.

Department of Revenue. The bill requires that DOR provide the SOS with real-time access to voter information in order to validate online voter registration applications. This may minimally increase workload in order to test the system, however no additional appropriation is required.

TABOR refunds. The bill may increase the amount of state revenue required to be refunded to taxpayers by up to \$306,500 in FY 2021-22 and up to \$60,000 in FY 2022-23. TABOR refunds are paid from the General Fund. This estimate is based on the June 2021 LCS revenue forecast, which incorporates the revenue impacts of bills passed during the 2021 session. A forecast of state revenue subject to TABOR is not available beyond FY 2022-23.

Federal ARPA funds. This bill [increases/decreases] state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Local Government

This bill will increase the costs and workload for counties to change forms, purchase additional mailing and postage, implement voter registration changes for other agencies, for some counties to report presidential primary results by precincts, and to cure ballots in voter service and polling centers. The average cost per county to implement the bill will be \$35,560 for large counties, \$20,300 for medium counties, and \$3,360 for small counties. In addition, changes to special district recall elections may have an indeterminate fiscal impact.

Effective Date

This bill was signed into law by the Governor and took effect on June 21, 2021 except that subsections 1-2-202.5 (1)(a) and (3)(e) take effect March 1, 2022 and applies to elections on or after the effective date.

State Appropriations

For FY 2021-22, this bill requires and includes an appropriation of \$306,500 from the Department of State Cash Fund to the Secretary of State's Office.

State and Local Government Contacts

Counties
Higher Education
School Districts
Special Districts

County Clerks
Judicial
Secretary of State

Health Care Policy and Financing
Municipalities
Sheriffs