

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

Wednesday, January 6, 2021
1:30 pm – 2:30 pm

1:30-1:45 INTRODUCTIONS AND OPENING COMMENTS

Presenter: Jena Griswold, Secretary of State

1:45-2:00 COMMON QUESTIONS

Main Presenters:

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

Supporting Presenters:

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

Topics:

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

2:00-2:15 INFORMATION TECHNOLOGY SERVICES

Main Presenters:

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

Supporting Presenters:

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

Topics:

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

2:15-2:30 SPENDING UPDATES AND USAGE

Main Presenters:

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

Supporting Presenters:

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

Topics:

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

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COMMON QUESTIONS FOR DISCUSSION AT DEPARTMENT HEARINGS

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

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

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

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

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

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

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

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

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

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

INFORMATION TECHNOLOGY SERVICES

ELECTION SECURITY

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

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

The Department works closely with the SCORE User Panel, or “SUP,” to identify modifications needed either due to legislative changes, opportunities for efficiency gains, or technical improvements. The SUP consists of county clerks and recorders, election directors, and other county expert staff that provide guidance to our tech team. Two of the SCORE projects currently underway are improving user management functionality for county administrators, and replacing the current document scanning system of SCORE. Both projects have been prioritized by the counties as needed enhancements for SCORE. We expect both projects will be complete by the end of the second calendar quarter of 2021. Other work underway on the SCORE system includes modernizing this processing to API¹-based routines, to more efficiently manage critical activities.

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

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

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

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

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

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

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

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

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

IT PROJECTS

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

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

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

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

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

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

SPENDING UPDATES AND USAGE

PRIOR YEARS' SPENDING

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

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

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

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

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

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

NEXT YEAR'S SPENDING

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

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

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

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