



**Joint Budget Committee**

# **Supplemental Budget Requests**

## **FY 2025-26**

**Department of State**

Prepared by:  
Sam Rickman, JBC Staff  
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Joint Budget Committee Staff  
200 E. 14th Avenue, 3rd Floor  
Denver, Colorado 80203  
Telephone: (303) 866-2061  
[leg.colorado.gov/agencies/joint-budget-committee](http://leg.colorado.gov/agencies/joint-budget-committee)

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# Overview of State

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

## Administration Division

The Department's operational needs are supported by this area, which encompasses human resources, finance, office management, and communications. Additionally, it provides direct support to the Office of the Secretary of State.

## Information Technology Division

This division is responsible for delivering technical services, project management, and supporting the development and maintenance of the Department's information technology systems.

## Elections Division

This division administers statewide statutory and constitutional provisions related to elections, which includes managing the initiative and referendum process. It is also responsible for certifying voting equipment and overseeing campaign finance reporting by political candidates and committees. Additionally, it handles the registration of lobbyists and monitors the filing of their required disclosure reports.

## Business and Licensing Division

This division facilitates the collection, maintenance, and public provision of access to filings submitted by businesses and non-profit organizations, such as annual reports and articles of incorporation. It is also responsible for registering business names, trade names, and trademarks. Additionally, this area registers charitable organizations and licenses entities involved in charitable bingo and raffles. It also handles the licensing and regulation of notaries public.

Revenue from these fees fund the vast majority of this Department.

# Summary of Staff Recommendations

## FY 2025-26 Summary

### Department of State: Recommended Changes for FY 2025-26

Item	Total Funds	General Fund	Cash Funds	Reaprop. Funds	Federal Funds	FTE
<b>FY 2025-26 Appropriation</b>						
SB 25-206 (Long Bill)	\$48,252,479	\$4,254	\$48,248,225	\$0	\$0	173.4
Other legislation	710,592	0	710,592	0	0	1.0
Current FY 2025-26 Appropriation	\$48,963,071	\$4,254	\$48,958,817	\$0	\$0	174.4
<b>Recommended Changes</b>						
Current FY 2025-26 Appropriation	\$48,963,071	4,254	\$48,958,817	\$0	\$0	174.4
S1 Additional legal resources	0	0	0	0	0	0.0
Impacts driven by other agencies	-84,217	0	-84,217	0	0	0.0
Recommended FY 2025-26 Appropriation	\$48,878,854	\$4,254	\$48,874,600	\$0	\$0	174.4
<b>Recommended Increase/-Decrease from 2025-26</b>						
Percentage Change	-\$84,217	\$0	-\$84,217	\$0	\$0	0.0
Percentage Change	-0.2%	0.0%	-0.2%	0.0%	0.0%	0.0%
FY 2025-26 Executive Request	\$48,966,072	\$4,254	\$48,961,818	\$0	\$0	174.8
Staff Rec. Above/-Below Request	-\$87,218	\$0	-\$87,218	\$0	\$0	-0.4

**S1/BA-1 Additional legal resources:** The Department requests \$87,218 in cash fund spending authority and 0.4 FTE for the current year, annualizing to \$198,632 and 1.0 FTE in FY 2026-27, to provide high-level legal services for the Department. The Department contends that litigation and records requests have increased beyond what was anticipated when the original request was developed, thereby justifying the need for additional in-house legal support. This position is within the Senior Executive Service (SES) job classification.

The recommendation is to deny this request.

**Impacts driven by other agencies:** The request includes a net decrease of \$84,217 for requests from other state agencies. These are also called “non-prioritized requests.” These requests are discussed during supplemental presentations for the lead requesting agency, at which point a staff recommendation will be made. Staff will update these figures to reflect the Committee’s decisions on these requests.

# Department Supplemental Requests

## → S1/BA-1 Additional Legal Resources

Item	Total Funds	General Fund	Cash Funds	Reapprop. Funds	Federal Funds	FTE
Request	\$87,218	\$0	\$87,218	\$0	\$0	0.0
Recommendation	0	0	0	0	0	0.0
Staff Recommendation Higher/-Lower than Request	-\$87,218	n/a	-\$87,218	n/a	n/a	n/a

### Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? NO

An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.

**Explanation:** Staff disagrees with the Department's contention that this request responds to data that was unknowable at the time the original request was submitted and therefore justifies a supplemental request.

### Request

The Department requests \$87,218 in cash fund spending authority and 0.4 FTE, annualizing to \$198,632 and 1.0 FTE, to provide high-level legal services for the Department. The Department contends that litigation and records requests have increased beyond what was anticipated when the original request was developed, thereby justifying the need for additional in-house legal support. This position is within the Senior Executive Service (SES) job classification.

### Recommendation

Staff recommends denial of the request on the grounds that it does not meet supplemental criteria and that the Department has not provided clear evidence supporting the need for an SES-level position. Based on subsequent discussions with the Department, staff does not believe there is sufficient evidence that the current workload was unknowable at the time of the original request, nor adequate rationale for funding an additional high-level FTE through the supplemental process.

Staff acknowledges that this request may be based on a prospective threat rather than a current, quantifiable increase in workload. However, staff does not believe there is sufficient evidence to evaluate the validity of this possibility in a way that would support approval. If the Committee does wish to approve this request, staff recommends doing so either at a lower position level or on a term-limited basis, given the unique statutory structure of the proposed SES position.

## Analysis

### Department Request Rationale

The Department contends that it has experienced increasing workload demands stemming from CORA requests, federal civil litigation, and a range of legal inquiries. As quantitative evidence, the Department cites a 20 percent increase in CORA requests in calendar year 2025 and a 30 percent cumulative increase since 2021. The Department associates this increase in workload with actions taken by the new federal administration elected in November 2024.

In its request, the Department states that the Secretary has been named in a number of recent lawsuits. The Department argues that, although the Attorney General's (AG) Office provides legal services, additional high-level in-house legal staff is necessary to support document review and case preparation. According to the Department, support from the AG's Office is insufficient to manage the increased workload resulting from this litigation.

The Department has requested a Senior Executive Service (SES)-level position to perform this work. Statute<sup>1</sup> requires that SES positions meet criteria established by, and be reviewed and approved by, the Director of the Department of Personnel. In addition, the total number of SES positions statewide may not exceed 125. The Department of State indicated that it received approval from the Director of Personnel prior to submitting this request.

Based on the information provided by the Department, staff evaluated whether the cited workload increases and supporting evidence warrant the requested spending authority and FTE.

### Staff Analysis

Staff does not believe that the Department sufficiently demonstrated that FY 2025-26 represents an unusual workload, that an in-house SES-level position is necessary, or that a supplemental request is the appropriate mechanism to fund this position.

Staff sought to identify quantitative measures of need beyond those formally presented in the request narrative. The Department provided only one quantifiable data point: a reported 20 percent increase in CORA requests in 2025, many originating from the U.S. Department of Justice (DOJ). However, the Department acknowledged that these increases do not represent the primary driver of workload for the proposed position. Instead, anticipated and ongoing litigation activity is expected to drive the workload. Accordingly, staff views the increase in CORA requests as, at most, a proxy for potential increased workload and concludes that this metric alone does not justify the requested SES position.

Staff asked the following questions of the department to help understand this request:

1. Quantify how this request meets supplemental criteria.
  - a. Show year-over-year court litigation in Colorado to demonstrate that the current year is an outlier justifying a supplemental FTE.
2. Why is a Senior Executive Service position required?

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<sup>1</sup> C.R.S. 24-50-104 (5)(c)

- a. Informal JBC policy is to hire new FTE at the minimum salary and title requirement.
3. Why must this be an in-house position rather than relying on the Attorney General's Office?

### Why a supplemental request?

The Department asserts that this request is a direct result of the 2024 presidential election, noting:

“We could not have anticipated that the federal government would send national guard troops to states without the consent of relevant governors, issue illegal executive orders attacking states’ rights to govern their own elections, initiate lawsuits from the Department of Justice, and submit unprecedented records requests from the federal administration and their allies.”

Staff agrees that the outcomes of the presidential election could not have been known at the time of the original request. However, it is not clear that this uncertainty alone justifies the supplemental request.

Staff asked the department to demonstrate any increased workload, to which the department responded, “...we do not have quantitative data on how the number of person-hours expended on lawsuits and CORA have increased year-over-year.” This response makes it difficult for staff to confirm or refute the assertions that form the basis of this request.

To support their claim that FY 2025-26 represents an unusual workload, the Department submitted a portfolio of five court cases. Staff requested this portfolio to better assess whether current litigation constitutes a significant deviation from prior years that would warrant additional appropriations. The Department provided the following cases:

1. *USA v. Griswold* (2025)
2. *Lopez v. Griswold* (2022)
3. *CO GOP v. Griswold* (2023)
4. *Suh v. Griswold* (2025)
5. *No on EE v. Kline* (2021)

Staff first acknowledges the highly technical nature of these court proceedings, which makes it difficult to determine definitively whether these cases represent an increased workload. However, staff believes that it is reasonable to assume that litigation against the Secretary of State and the Department occurs regularly, which is the purpose of ongoing support from the Attorney General's Office. Moreover, three of the five cases predate 2025, immediately raising questions about whether they can be used to justify a supplemental request for FY 2025-26.

### Why an SES position?

The Department has requested this SES-level position to serve as a “policy and legal advisor.” Staff notes that informal JBC practice is to hire new FTE at the minimum position level. To assess comparability, staff reviewed LCS FTE spreadsheets and determined that the most relevant comparison is the “Policy Advisor” classification, as SES positions do not appear in this resource. Even the highest possible salary for a senior Policy Advisor—Policy Advisor VII—remains lower than the ongoing salary for the requested SES position.

The Department argues:

“Simply put, this position requires significantly greater legal expertise and experience than a Policy Advisor position. When facing, for example, the US Department of Justice in litigation and responding to Presidential Executive Orders that undermine our ability to deliver free and fair elections, we need an experienced attorney with significant legal experience.”

Staff acknowledges that the Department is requesting a fully trained attorney, but questions whether this level of expertise is necessary, especially given the high cost and nature of the position (discussed below). It is unclear that this position would indeed be “facing the US DOJ in litigation” directly, or primarily providing support to the Attorney General’s Office legal team in preparing documentation for litigation—a task that staff believe may reasonably be completed by a lower-level position.

An additional concern with approving an SES position is that it is unclassified, meaning it does not receive the protections afforded to classified FTE. This is particularly relevant because departmental leadership could determine in future years that the position is unnecessary and redirect the appropriation elsewhere—an important consideration in an election year, when leadership will change before the end of the calendar year. As a result, there is no assurance that the Department would continue to prioritize the approved use.

Staff recognizes that a key justification for this position is to address unforeseen issues that may arise during the upcoming election year. If the Committee does decide that this position is necessary, staff recommends considering a term-limited appointment, which would allow the Department to hire the position while maintaining budget transparency and limiting long-term fiscal commitment.

### **Why an in-house position, instead of relying on the Attorney General’s Office?**

Despite the services offered by the Attorney General’s Office, the Department contends that it must:

“...internally oversee a number of core responsibilities, including: reviewing documents for production, providing general policy and strategic advice, providing litigation support, managing the CORA process (which requires significant workforce power to retrieve, review, and redact), drafting memoranda to assist the Secretary in making critically important policy decisions, and much more.”

Staff agrees that periods of increased litigation may place an additional workload burden on the Department. However, staff notes a lack of evidence demonstrating that the current year represents an unusual or extraordinary workload compared to previous election cycles.

Staff further questions the necessity of a high-level SES position, as the Attorney General is statutorily<sup>2</sup> designated as the chief legal counsel and advisor for the Department. Additionally, statute<sup>3</sup> mandates that the AG defend all suits relating to the Department. Since the AG’s Office ultimately manages the litigation in court, the requested in-house position would likely focus on documentation and preparation—tasks that staff believe can be reasonably completed by lower-level positions rather than an SES-level advisor.

## **Conclusion**

Accordingly, staff recommends maintaining the status quo and relying on the Attorney General’s Office to fulfill its statutory responsibilities to defend the Department. Staff does not believe this request meets established supplemental criteria, as the Department has not demonstrated that the current workload represents an

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<sup>2</sup> C.R.S. 24-31-101 (1)(a)

<sup>3</sup> C.R.S. 24-31-101 (1)(h)

unknowable or extraordinary departure from previous election cycles. If the Committee deems providing further legal resources a priority, staff recommends waiting until the regular figure-setting process to evaluate the need alongside other departmental priorities. Should the Committee choose to act now, staff suggests approving the request only at a lower position level and/or as a term-limited appointment to maintain budget transparency and limit long-term fiscal commitment.

## Appendix A: Numbers Pages

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

***JBC Staff Supplemental Recommendations - FY 2025-26***  
***Staff Working Document - Does Not Represent Committee Decision***

**Appendix A: Numbers Pages**

	FY 2024-25 Actual	FY 2025-26 Appropriation	FY 2025-26 Requested Change	FY 2025-26 Rec'd Change	FY 2025-26 Total w/Rec'd Change
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**Department of State**  
**Jena Griswold, Secretary of State**

**S1 Additional legal resources**

**(1) Administration Division**

Personal Services	<u>2,941,274</u>	<u>3,064,415</u>	<u>79,921</u>	<u>0</u>	<u>3,064,415</u>
FTE	31.0	26.3	0.4	0.0	26.3
General Fund	0	0	0	0	0
Cash Funds	2,941,274	3,064,415	79,921	0	3,064,415
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
Operating Expenses	<u>355,161</u>	<u>537,100</u>	<u>5,202</u>	<u>0</u>	<u>537,100</u>
General Fund	0	0	0	0	0
Cash Funds	355,161	537,100	5,202	0	537,100
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

**(2) Information Technology Division**

**Information Technology**

Operating Expenses	<u>558,034</u>	<u>4,396,219</u>	<u>2,095</u>	<u>0</u>	<u>4,396,219</u>
General Fund	0	4,254	0	0	4,254
Cash Funds	558,034	4,391,965	2,095	0	4,391,965
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0

**JBC Staff Supplemental Recommendations - FY 2025-26**  
**Staff Working Document - Does Not Represent Committee Decision**

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	FY 2024-25 Actual	FY 2025-26 Appropriation	FY 2025-26 Requested Change	FY 2025-26 Rec'd Change	FY 2025-26 Total w/Rec'd Change
<b>Total for S1 Additional legal resources</b>	3,854,469	7,997,734	87,218	0	7,997,734
FTE	<u>31.0</u>	<u>26.3</u>	<u>0.4</u>	<u>0.0</u>	<u>26.3</u>
General Fund	0	4,254	0	0	4,254
Cash Funds	3,854,469	7,993,480	87,218	0	7,993,480
Reappropriated Funds	0	0	0	0	0
Federal Funds	0	0	0	0	0
<b>Totals Excluding Pending Items</b>					
<b>STATE</b>					
<b>TOTALS for ALL Departmental line items</b>	41,941,049	48,963,071	87,218	0	48,963,071
FTE	<u>152.3</u>	<u>174.4</u>	<u>0.4</u>	<u>0.0</u>	<u>174.4</u>
General Fund	2,336,648	4,254	0	0	4,254
Cash Funds	38,998,084	48,958,817	87,218	0	48,958,817
Reappropriated Funds	606,317	0	0	0	0
Federal Funds	0	0	0	0	0