

Funding Issue 1

Election Services Expenses

Description of issue and how recommending the agency's request furthers the agency's mandates: In an Election year, the SOS is required to cover expenses of certain deliverables and/or processes. There are also critical functions that the department must provide in order to properly administer the election. The Secretary works very closely with the counties, and in order to create greater efficiencies, the department has provided information pertaining to elections to voters as well as assisted the counties with poll worker recruitment and providing back-up poll workers in cases of emergencies. The responsibilities and expenses are described as follows:

- *Reimbursement-Petition and Referendum Signatures*– The SOS reimburses the counties for the costs associated with signature verification on candidate and referendum petitions. Per ARS §§ 19-121.02, County Recorders must verify the signatures on the petitions. ARS §§ 19-121.05 establishes a special fund for the Secretary of State's Office to use for reimbursement of the actual costs of the signature verification process, not to exceed fifty cents per signature.
- *Reimbursement – Sample Ballots* – Per ARS §§ 16-461 D., a certified claim shall be presented to the secretary of state by the board of supervisors for the actual cost of printing, labeling and postage of each sample ballot actually mailed, and the secretary of state shall direct payment of the authenticated claim from funds of the secretary of state's office.
- *Petition Processing* – The Secretary of State's Office is responsible for the verification of petitions as they are filed by candidates and campaign committees. A.R.S. §§ 19-121.01, 19-208.01, 16-311, 16-803 prescribe that the SOS follow specific and extensive review requirements when verifying petition signatures. Millions of pages of forms will be turned in, with the majority of them coming in close to the filing deadline, with tight timeframes set by statute for verifying that the petitions meet the statutory requirements in Titles 16 and 19. The office will incur systems costs to scan and review petitions to comply with statutory requirements, fulfill public records requests, and timely provide electronic records for potential court challenges. The office will also incur expenses related to overtime and temporary staff that will be needed to complete the processing.
- *Publicity Pamphlets* – ARS §§ 19-123 requires that for elections in which there are initiative or referendum changes to the constitution, that a publicity pamphlet must be printed, at the expense of the state, that includes pro and con arguments. In order to cut down on costs, voters can elect to have the publicity pamphlet emailed to them, and it must be made available on the Secretary of State's website. The Office has also done what it can to limit the expenses by conducting procurement to select the vendor, reduce the non-essential information contained within the document, and promote those receiving the document electronically.
- *Logic and Accuracy Testing* – §16-449 requires “electronic ballot tabulating systems shall be tested for logic and accuracy within seven days before their use for early balloting pursuant to the instructions and procedures manual for electronic voting systems that is adopted by the secretary of state as prescribed by section 16-452.” Traveling to all 15 counties within the

specified timeframe requires that the Secretary, State Elections Director, Deputy State Elections Director and Information Security Office, as well as the review team, use the state’s plane in order to meet the statutory obligations. This ensures that they are able to get to all 15 counties in a timely manner.

- *Customer Service Temps:* The Secretary of State’s Office experiences a dramatic increase in customer inquiries during an election year. Temporary team members are needed to address the thousands of additional customer questions that come in by phone, electronically, and in-person. Given Arizona’s continued interest in the elections process and the ever-increasing number of registered voters, temporary help throughout the election year is needed. During even higher volume times, for example around initiative filings and election day, these temporary team members will work over-time hours. Additionally, full-time staff who would typically assist with customer service will be pulled off of customer service to cover election-year projects, including candidate filings, initiative filings, L&A testing, and increased UOCAVA/voter registration/voter cancellation processing.
- *Emergency Pollworker Program:* In 2020, the Secretary of State’s Office provided a poll worker recruitment program to assist any county who had emergency poll worker cancellations and needed assistance to operate on election day. This program supports emergency poll workers’ travel expenses if needed.
- *Public Education:* The Secretary of State’s Office has a responsibility to ensure Arizonans understand how Arizona’s elections work. During the 2020 Elections cycle, the department spent \$4.75 million, and given the mis-/dis-/mal-information currently being shared about elections, it is critical that the Secretary is able to share accurate information about election security, how to register to vote, and how/when to vote.
- *Election Comms Intern:* This position provides seasonal support for communication management.
- *Voter Registration Forms:* The Secretary of State is responsible for supplying (at no cost) Federal Forms to all federal, state, county, and local government agencies, political parties, and private organizations that conduct voter registration activities. A.R.S. § 16-151(B). In 2021, the legislature passed SB 1819 that will also require the SOS to provide voter registration forms to the Arizona Game and Fish Department, which means that the SOS will increase its ordering from past years.

Proposal: Provide \$10,595,598 for the above referenced items, all included as part of the Elections Services Line.

Election Services Line	Reimbursement - Petition and Referendum Signatures	\$150,000
Election Services Line	Reimbursement - Sample Ballots	\$1,935,053
Election Services Line	Publicity Pamphlets	\$2,533,545
Election Services Line	Petition Processing	\$666,000
Election Services Line	Logic and Accuracy Testing	\$78,000
Election Services Line	Customer Service Temps & Overtime	\$200,000
Election Services Line	Emergency Pollworker Program	\$5,000

Election Services Line	Public Education	\$5,000,000
Election Services Line	Elections Comms Intern	\$23,000
Election Services Line	Voter Registration Forms	\$5,000

Alternatives Considered and reasons for rejection: The department may have considered seeking grant funding to support some of the elections administration functions, but the legislature has prohibited that (HB2569, 55th Legislature, 1st regular session). Additionally, while many states have used HAVA funds that Congress has granted to increase their administration of elections, that has not been the case in Arizona. The counties have benefited greatly from grants to support election security, so that has been the right choice, but it has impacted the ability of the state to use HAVA funds for elections administration.

Impact of not funding this fiscal year: 2022 is an Election year and not funding this line item will create a financial crisis for the Secretary of State in being able to meet the department's obligations and for the Counties who expect to be reimbursed for their expenses.

Statutory Reference: Portions of Title 16 and 19 require the Secretary of State to pay for or reimburse the counties for certain expenses. Exact sections are referenced above.

Equipment to be purchased: None.

Classification of new positions: Request only adds temporary/intern positions. No permanent positions are being requested.

Annualization: N/A

Item	FY19 Actual	FY21 Actual	FY23 Estimate*
Signature Reimbursement	\$67,368	\$75,878	\$150,000

*In FY23 we estimate double the # of signatures compared to FY21 for several reasons-

We are already seeing a general upwards trend by committees circulating petitions. Circulation was suppressed in FY21 due to the pandemic.

Population increases will result in more signatures.

In FY23 we expect referendas to be filed even though none were filed in FY21. There are currently 6 being circulated for FY22. We believe the contrast between FY21 and FY22 is attributable to the pandemic and we should anticipate a large jump in signatures needing review in FY23 compared to FY21.

Item	FY19 Actual	FY21 Actual	FY23 Projection
Registered Voters January 1 of Election Year*	3,634,091	3,926,649	4,397,847
Cost per voter**	\$0.4747	\$0.4336	\$0.4400
	\$1,725,120	\$1,702,733	\$1,935,053

*In an 18 month period, from January 1, 2020 - July 1, 2021, VR has increased by 10%, which is more than the previous 24 month period, from January 1, 2018 - January 1, 2020, when VR increased by a total of 8%; The estimate for FY23 assumes a total increase of 12% between January 1, 2020 & January 1, 2022.

**The cost per voter for the sample ballots decreased in 2020, compared to 2018. Overall, the state had more voters on the Early Voting list in 2020 , due to the pandemic, and early voters do not receive a sample ballot. The FY23 projection assumes the cost/voter will remain level.

Item	FY19 Actual Cost	FY21 Actual Cost	FY23 Estimate
Printing*	\$1,444,574	\$1,076,138	\$1,685,707
Electronic Delivery	\$1,336	\$1,568	\$2,000
Proofreading	\$13,400	\$22,794	\$25,000
Translations	\$39,133	\$19,043	\$40,000
Layout	\$77,433	\$87,382	\$90,000
Postage**	\$318,113	\$510,013	\$686,838
Overtime	Not accounted for	\$658	\$1,000
Payroll-temp help	Not accounted for	\$2,831	\$3,000
	\$1,893,989	\$1,720,427	\$2,533,545

*See Trend Offset Printing Priceshet - total cost includes item 7 from price sheet plus 8.6% tax. The printing cost decreased between FY19 & FY21 because the 2018 pamphlet was 212 pages, while the 2020 pamphlet was 180 pages.

**In 2018 2,095,037 pamphlets were mailed at \$.1522/piece and, in 2020, 2,182,129 pamphlets were mailed at \$.2389/piece, a 57% USPS increase in price/piece. FY23 estimate assumes a 25% postage increase, with 2.3m pamphlets being mailed.

Attachment IV-Price Sheet – BPM00572 Rev 7.1.19 - Trend Offset Printing

Printing (includes Cover Weight Stock), Mailing, Postal Optimization & Tracking Pamphlets						
Description	Quantity	Page Count	Cost Per Each Pamphlet	Total Cost	Cost Per +8 Additional Pages	Cost Per -8 Less Pages
Standard English - Mailed	2,500,000	288	\$0.5995/unit	\$1,498,750.00	+ \$0.0125/unit	- \$0.0117/unit
Standard English – Bulk	24,500	288	\$0.5995/unit	\$14,687.75	+ \$0.0125/unit	- \$0.0117/unit
Spanish – Bulk	12,000	296	\$1.6049/unit	\$19,258.80	+ \$0.0139/unit	- \$0.0182/unit
Large Print – Bulk	4,500	500	\$4.1402/unit	\$18,630.90	+ \$0.0236/unit	- \$0.0307/unit

Electronic Delivery of Pamphlets						
Description	Quantity	Cost Per Each Email		Total Cost	Cost Per 10,000 Additional Emails	Cost Per 10,000 Less Emails
No-Bid						
Test Email	800,000					
Email	800,000					

Proofreading				
Description	Page Count	Total Cost	Cost Per +4 Additional Pages	Cost Per -4 Less Pages
No-Bid				
Standard English	288			
Large Print	500			

Layout (Artwork, Design, Production and Proofreading)				
Description	Page Count	Total Cost	Cost Per +4 Additional Pages	Cost Per -4 Less Pages
No-Bid				
Standard English	288			
Spanish	296			
Large Print	500			

Additional Notes:

- 1) 1% 30 day prompt pay discount
- 2) **Finished size bid at 8.25" x 10.25"**
- 3) Paper has to be ordered 6 – 8 weeks prior to press at the estimated page counts.
- 4) Additional and less page are quoted in 8 page increments. Eight page increments allows for the most flexibility for last minute page count changes.
- 5) Page Counts under 160 can be saddle stitched at \$0.08 less per unit
- 6) Perfect Bound requires additional day in the schedule.
- 7) Programing to apply the pallet numbers to mail files with the ability to locate the time a pallet arrived for any mail recipient. Files provided by county at \$0.35 per/M or a unit cost of \$0.00035.

Item	FY19 Actual	FY21 Actual	FY23 Estimate*	FY23 Description
System**	\$79,070	\$0	\$141,000	Expense for agreement with the vendor for license, support, fees, and development
Clicks***	\$48,000	\$80,000	\$160,000	Vendor cost for raw row count per signature at \$.04 per row
Scanner Costs****	\$0	\$2,709	\$5,000	Scanner repairs
Temporary Workers	\$101,982	\$126,125	\$260,000	Potential need to double the program from 2020 due to estimated increase in petitions to process
Overtime	\$17,750	\$44,037	\$90,000	Potential need to double the program from 2020 due to estimated increase in petitions to process
Microsoft Office License for Workers	Not accounted for	\$4,379	\$10,000	Potential need to double the program from 2020 due to estimated increase in petitions to process
	\$246,802	\$257,250	\$666,000	

*In FY23 we estimate double the # of signatures compared to FY21 for several reasons-

We are already seeing a general upwards trend by committees circulating petitions. Circulation was suppressed in FY21 due to the pandemic.

Population increases will result in more signatures.

In FY23 we expect referendas to be filed even though none were filed in FY21. There are currently 6 being circulated for FY22. We believe the contrast between FY21 and FY22 is attributable to the pandemic and we should anticipate a large jump in signatures needing review in FY23 compared to FY21.

**For FY21 system expenses were paid in FY20 and we negotiated to end the vendor agreement without further payment in FY21

**FY22-26 See attachment: Vendor Price Sheet – Petition Processing

***In 2018 row count exceeded 1.2 million, in 2020 it was 2 million; SOS estimates double that of 2020 in 2022.

****This line is to cover scanner repairs that arise and are urgently needed when scanners break down in the middle of processing. SOS purchased scanners in fiscal years 2018 and 2020 at a cost of \$14,082 and \$21,700, respectively.

Vendor Price Sheet – Petition Processing

Costs	FY2022	FY2023	FY2024	FY2025	FY2026	Total
License	\$50,000	\$0	\$0	\$0	\$0	\$50,000
Software Maintenance	\$0	\$10,000	\$10,000	\$10,000	\$10,000	\$40,000
Hardware	\$0	\$0	\$0	\$0	\$0	\$0
Hardware Maintenance	\$0	\$8,000	\$8,000	\$8,000	\$8,000	\$32,000
Support Costs**	\$15,000	\$15,000	\$15,000	\$15,000	\$15,000	\$75,000
Row Count	TBD	TBD	TBD	TBD	TBD	TBD
Development*	\$16,800	\$108,000	TBD	TBD	TBD	\$124,800
Total	\$81,800	\$141,000	\$33,000	\$33,000	\$33,000	\$321,800

Variable Costs	Cost	Payment Schedule
Per Row Fee	\$0.04 per row	Total per FY to be determined before payment
Development Hours	\$150 per hour	Total per phase item below
Standby Support – if it is not requested more than 30 days in advance or outlined in Table 5	\$100 per hour	Total per FY to be determined before payment

****Support Costs**

RES will establish and maintain an organization and process to provide support for the Software to Customer for a \$15,000 flat fee. Support shall include (i) diagnosis of problems or performance deficiencies of the Software and (ii) a resolution of the problem or performance deficiencies of the Software.

RES will provide telephone and email software support on a business day basis. Business day is defined as 8:00 AM through 5:00 PM mountain standard time, excluding holidays and weekends. Support will also include standby support to be provided during the times outlined in Table 5 on page 62.

If additional standby support is needed, it must be requested 30 calendar days in advance, or it will be subject to a charge of \$100 per hour in one (1) hour increments.

***Development Hours**

For FY22 and FY23 broken down by requirement requested that requires development.

FY 2022 (Phase 1 & 2) Development Items	Hours of Development	Cost
5.2.1	32	\$4,800
5.4	32	\$4,800
5.2.5 (previous 2.4.3.4)	24	\$3,600
5.2.6 (previously 1.6.6)	24	\$3,600
Total	112	\$16,800

FY 2023 (Phase 3) Development Items	Hours of Development	Cost
2.3.1	160	\$24,000
2.3.4	40	\$6,000
2.7	104	\$15,600
2.7.6	128	\$19,200
2.8	16	\$2,400
3.3.1	240	\$36,000
5.2.3	32	\$4,800
Total	720	\$108,000

Funding Issue 1
Election Services Line
Petition Processing

Item	FY20 Actual Cost*	FY21 Actual Cost	FY23 Estimate
Air Transportation	\$21,222	\$37,414	\$40,000
Temporary Workers	\$2,918	\$21,332	\$25,000
Overtime	\$1,280	\$2,083	\$3,000
Translations	\$3,820	\$8,220	\$10,000
	\$29,240	\$69,049	\$78,000

*FY20 costs are for one election (Presidential Preference), while FY21 costs are for two elections (Primary & General), FY23 is a Primary & General election year with 2 rounds of logic & accuracy testing.

Item	FY21 Actual Cost	FY23 Estimate*
Customer Service Temps	\$0	\$180,000
Overtime	\$10,355	\$20,000
	\$10,355	\$200,000

*In FY21 our customer service temps worked 7 pay periods, from 09/23/20-12/17/20. In FY23 we would like to onboard them on 07/01/20 and have them stay on through 12/31/20, for 13 pay periods.

Item	FY21 Actual Cost	FY23 Estimate
Emergency Pollworker Travel	\$2,963	\$5,000
	\$2,963	\$5,000

Funding Issue 1
Election Services Line
Emergency Pollworker Program

Item	FY21 Actual Cost	FY23 Estimate*
Elections Comms Intern	\$17,548	\$23,000
	\$17,548	\$23,000

*In FY21 our comms intern worked 10 pay periods, from 08/03/20-12/11/20. In FY23 we would like to onboard them on 07/01/20 and have them stay on through 12/31/20, for 13 pay periods.

Funding Issue 2

Agency Administration

Description of issue and how recommending the agency's request furthers the agency's mandates: The Elections Division of the Department of State has more statutorily mandated responsibilities than any other Division in the agency. The Elections Division manages, among other things, the voter registration system, logic and accuracy testing for state and federal elections, election equipment certification, candidate nomination petitions and filings, initiative, referendum, and recall petitions and filings, circulator registration, campaign finance, lobbyist registration and reporting, officeholder financial disclosure statements, public records requests, and public information about elections. There are legal requirements, statutory requirements, procedures, and rules that all have to be met and followed. The division works in close consultation with the 15 counties that administer the elections, and works with many other local, state, and federal partners in the administration of elections. And they do all of this with a staff of 12 people.

As the 16th ranked state in population, it is then surprising that Arizona has one of the smaller staffs of state elections offices in the country. Only 37% of states have staff offices that are under 10 staff members, with 44% of offices having over 15 staff members. Only 19% of offices have between 10 and 14 staff members, like Arizona. The administration of elections in Arizona has gotten significantly more complex over the years, with more petitions being filed every year, submitting more signatures for review, stricter and more complicated requirements for signature review, along with advances in technology and increased security protocols around voter registration and other processes. Yet, the division has not grown, but is actually shrinking due to other priorities being placed on the agency by the legislature (creating an unfunded legal counsel position, for example). Not only are the demands significant, but due to the level of responsibility everyone has, there is no opportunity for cross training or redundancy in positions, which creates significant hardships when people are out sick, take annual leave, or leave the agency entirely for higher paying and less stressful jobs. Furthermore, county and city governments continue to pay more for similar elections related jobs, and staff retention is a significant issue because of it and private sector competition.

Similarly, the administration of the Department of State has remained stagnant in size, even as there have been increased responsibilities and mandates placed upon the office. With the FY22 budget reconciliation bills including additional auditing requirements for the department, as well as the new responsibilities for the department to manage its own legal needs, with no representation from the Attorney General's Office and a prohibition on paying for outside counsel, the administrative functions have increased significantly. While the Auditor General received an additional appropriation of \$500,000 to support their increased auditing responsibilities, there were no resources provided to the Department of State to be able to manage the administrative side of these audits and reporting responsibilities. Additional support staff are needed to fulfill these functions.

Proposal: The overall operating budget of the Department of state should be increased to create 3 new support positions within the department, to support elections and the administration.

Additional Department of State Support

Customer Service Representative (1)	\$35,201
Customer Service Representative (2)	\$35,201
Budget Analyst	\$55,774
Employee Related Expenses	\$50,470
Workstations & Computers	\$9,000
Total	\$185,646

Alternatives Considered and reasons for rejection: The department may have considered seeking private grant funding to support some of the elections administration functions, but the legislature has prohibited that. Additionally, while many states have used HAVA funds that Congress has granted to increase their staffing for administration of elections, that has not been the case in Arizona. The counties have benefited greatly from grants to support election security, so that has been the right choice, but it has impacted the ability of the state to keep up with other states in terms of their staff sizes and ability to recruit and retain staff.

It is apparent that Arizona is going to be in the center of the elections universe for the foreseeable future, and the legislative and administrative initiatives around transparency and reporting will also not be abating any time soon. The department continues to take on new responsibilities and mandates, and while we fully support any and all attempts to increase transparency and accountability, it cannot come at a cost to other functions of the department.

Impact of not funding this fiscal year: We will continue to lose qualified election staff due to burn out and non-competitive wages, and we will need to divert staff from other divisions to assist during high volume times, taking them away from their respective duties.

Statutory Reference: Titles 16 and 19

Equipment to be purchased: 3 Computers

Classification of new positions: 2 Customer Service Representative 2 (AUN04112), 1 Budget Analyst (AUN04357)

Annualization: N/A

Funding Issue 3

Appropriate Remaining Election Security Grant

Description of issue and how recommending the agency's request furthers the agency's mandates: The Arizona Secretary of State's Office (SOS) was awarded a total of \$15,860,974 in Election Security grant funds from the Election Assistance Commission (EAC) between fiscal years 2018 and 2020. \$14,346,475 of the Election Security grant funds have been appropriated, most for county subgrants with some for use by the SOS. Of the amount appropriated to the SOS, the Department estimates less than \$10,000 will remain at 2022 fiscal year-end. The SOS has several obligations, totaling at least \$764,273, slated to be paid out of HAVA funds in fiscal year 2023. There are other costs that may arise between now and the beginning of fiscal year 2023 that are not represented in that amount and the statewide election in fiscal year 2023 may bring on even more HAVA costs.

FY23 HAVA Election Security Grant – SOS Projected Spending

AVID Maintenance & Operations & Hosting	\$508,000
SOS Internal Cyber Security Initiatives	\$28,000
SOS County-level Cyber Security Initiatives	\$20,000
County Employee Engagement	\$20,000
SOS Customer Service Phone System	\$25,000
SOS Salaries	\$153,273
Statewide Threat Liaison Officer Program	\$10,000
Total	\$764,273

Additionally, the supplemental election security grant appropriation issued to the SOS during the second regular session of the fifty-fourth legislature for \$6,690,300 lapses at the end of fiscal year 2022. \$1,338,100 of the appropriation was for election systems improvements for the Secretary of State and \$5,352,200 for election systems improvements for counties. The balances on those appropriations will be inaccessible after fiscal year 2022 without an extension to the lapsing date.

Proposal: Appropriate the remaining HAVA Election Security grant award of \$1,514,499 to the Secretary of State in the fiscal year 2023 budget. Additionally, the lapsing date for the \$6,690,300 appropriation should be extended to June 30, 2023.

Alternatives Considered and reasons for rejection: The state could appropriate general fund monies for fiscal year 2023 election security expenditures.

Impact of not funding this fiscal year: Federal grant monies would be inaccessible, severing the state's ability to meet its obligations, disperse county subgrants, and dynamically address election security issues, enhance existing technology, and make improvements to the administration of federal elections at both the state and county level. Most importantly, the state would not be able to meet its obligations towards maintenance and operation, as well as hosting, of the statewide voter registration database, known as AVID.

Statutory Reference: ARS § 41-129

Equipment to be purchased: None identified at this time.

Classification of new positions: N/A

Annualization: N/A

Funding Issue 4

Increase Records Services Fund Appropriation

Description of issue and how recommending the agency's request furthers the agency's mandates: In fiscal year 2021, the Secretary of State's office began experiencing contractual, incremental price increases for storage of the state's records at Iron Mountain. The rate increased \$.005 per cubic foot of storage in FY21, \$.004 in FY22, and goes up \$.005 per year from FYs 23-27, when the contract ends. In FY23 we plan to increase state agency charges for storage, to parallel the increases written into the Iron Mountain contract and will therefore have the cash on hand to cover the contract increase but will need appropriation authority to access the monies.

Proposal: Provide a \$105,600 increase to the Records Services Fund (RSF) appropriation in fiscal year 2023, bringing the total appropriation to \$1,392,400. In July 2021 the state had 322,952 cubic feet of records in storage and the Iron Mountain billing cost came to an average of \$.25 per cubic foot. With the cost per cubic foot increasing to \$.255 in FY23 and assuming record storage space will increase to 350,000 cubic feet by FY23 the cost per month will go up by \$8,797 or \$105,564 annually. Accounting for some storage growth upfront will provide state agencies with the ability to add more records to storage as the need arises and allow the SOS to cover the resulting increases to the Iron Mountain bills.

Alternatives Considered and reasons for rejection: We could request an appropriation from the general fund, but that would negate the goal of self-funding the program using the RSF and leave the revenues generated by the fund unused.

Impact of not funding this fiscal year: Without an appropriation increase under the Records Services Fund the agency would not have access to all the revenues that the fund generates and would need supplemental funding from the General Fund to cover contractual expenses.

Statutory Reference: Per ARS 41-151.12 the Records Services Fund was established for the preservation and management of records.

Equipment to be purchased: N/A

Classification of new positions: N/A

Annualization: N/A

Funding Issue 5

Legal Services Program

Description of issue and how recommending the agency's request furthers the agency's mandates:

During the 2021 Legislative Session, the General Appropriations Act, SB 1823, was passed, which, at the request of the attorney general's office, do the following: (1) state that "[t]hrough June 30, 2023, the attorney general may not represent or provide legal advice to the secretary of state or the department of state on any matter" (page 10, lines 43-45); (2) prohibit the Secretary from "mak[ing] expenditures or incur[ring] indebtedness to employ outside or private attorneys to provide representation or services;" and (3) permit the Secretary to hire an in-house position "to serve as legal advisor and to represent the secretary of state" but makes no appropriation for those expenses (page 64, lines 26-29).

The Secretary has a department which has legal matters before it regularly, across each of its divisions, including Elections, Business Services, Address Confidentiality Program, and Library, Archives, and Public Records. A high-level summary of the typical legal needs of the Department of State makes evident the extent of those needs and their central role in fulfilling the agency's mandates.

The majority of the department's legal needs pertain to the Elections Division, including the following examples:

1. Currently, six (6) referendum petition efforts have filed for a petition serial number and are currently circulating petitions, and referendum efforts can reasonably be anticipated following the 2022 Legislative Session. The department needs legal advice to ensure compliance with applicable constitutional and statutory provisions relating to filing, processing, and certification of any filed petitions, and we anticipate there will be multiple court challenges relating to any filed petitions for which the department will need legal representation.
2. The new party petition filing deadline for the 2022 election cycle is November 26, 2021. The department needs legal advice to ensure compliance with applicable constitutional and statutory provisions relating to filing, processing, and certification of any filed petitions, and, if any petitions are filed, there may be court challenges relating to those petitions for which the department would need legal representation.
3. The Elections Division has been in receipt of an increasing volume of large public records requests and needs legal review and advice in appropriately responding to those requests and protecting confidential and statutorily protected data. Disputes over public records requests may result in litigation, for which the department would need legal representation.
4. The Elections Division is tasked with conducting certain official business through public meetings and needs legal review and advice to ensure compliance with open meeting laws and responding to any complaints or litigation relating to open meeting laws.
5. The Election Equipment Certification Advisory Committee continues to receive election equipment certification applications and holds public meetings to consider those applications. Previously, the Attorney General's Office served as compliance counsel to the committee, which advises the Secretary on equipment certification decisions.

6. During the 2021 Legislative Session, close to 30 new laws relating to election administration were enacted, requiring implementation and incorporation into the Election's Division's policies and the Elections Procedures Manual.
7. During the candidate challenge period, the Secretary, as the filing officer for federal, statewide, and legislative candidates, is the defendant in dozens of lawsuits in a very compressed time period, requiring multiple attorneys to be available to prepare briefing and appear at court hearings, with often multiple court hearings occurring on the same day and even at the same time.
8. Similarly, during the initiative filing and challenge period, the Secretary, as the filing officer for statewide initiative petitions, often needs legal advice regarding statutory and constitutional compliance and is the defendant in multiple lawsuits in a very compressed time period, requiring multiple attorneys to be available to prepare briefing and appear at court hearings.
9. The Secretary of State, as the Chief Election Official for the State, is frequently a named defendant in litigation, including pre- and post-election litigation and contests. In the 2020 election cycle, there were nine separate post-election contests filed following the November General Election, and numerous other election-related lawsuits naming the Secretary were filed prior to the November General Election.
10. The Elections Division will likely need legal advice relating to implementation of newly redistricted legislative and congressional maps, and may need representation in any redistricting related litigation if the Secretary's and counties' implementation of the new maps are at issue.
11. The Elections Division regularly needs legal advice relating to campaign finance and lobbying compliance as well as related complaints and referrals to the Attorney General's Office.

In addition to the Elections Division, the department's other divisions also regularly need legal advice and representation.

1. The Business Services Division needs: (a) legal advice regarding the making of, amendments to, or repealing of rules in 12 A.A.C. 1, Office of the Secretary of State; (b) review of policy changes for legal compliance; (c) representation when complaints are filed relating to the Division's responsibilities; and (d) legal advice and representation relating to notary commissions, complaints, and Office of Administrative Hearings proceedings.
2. The Address Confidentiality Program needs: (a) review of any changes to rules, policies, or practices that require legal analysis; (b) review of address disclosure requests when circumstances are outside of standard protocol or when expedited requests or denials require legal advice (e.g., DCS priority one requests, Court requests, etc.); (c) review and legal advice concerning responding to any subpoenas, warrants, or any other legal documents regarding any participants or the program/staff; (d) review of legal resource documents created for participants; (e) review of contracts and intergovernmental agreements and policies, which can include attorney attendance at meetings relating to those contracts; and (f) general legal analysis and advice relating to ACP's responsibilities.
3. The Library, Archives, and Public Records Division regularly needs legal review of contracts and intergovernmental agreements and policies, which can include attorney attendance at meetings relating to those contracts.
4. The Administrative Rules Division occasionally needs legal advice relating to the duties and functions of division.

5. The Administration also regularly needs: (a) legal review of contracts and intergovernmental agreements and policies, which can include attorney attendance at meetings relating to those contracts; (b) legal advice, and if necessary, representation, relating to HR matters; and (c) representation in general agency litigation.

Since the Secretary will no longer be represented by the Attorney General’s Office in any matters and has been prohibited by the legislature from making expenditures or incurring indebtedness to obtain outside counsel, it is untenable and unrealistic to expect the agency to function without the support of an adequately staffed legal department. And while the legislature stated that the Secretary could employ in-house counsel, there was no appropriation for that position, nor for any support positions necessary to handle all legal needs in-house.

Proposal: The legislature should fund a functioning in-house legal department in the Secretary of State’s Office to meet the agency’s wide-ranging legal needs required to fulfill the agency’s mandates in compliance with applicable constitutional and statutory provisions. Because the legislature has cut off other prior sources of legal advice and representation, this proposal is the only remaining feasible option.

Legal Services Annual Program Costs

General Counsel	\$150,000
Staff Attorney (1)	\$83,358
Staff Attorney (2)	\$83,358
Paralegal	\$51,321
Legal Fellow	\$50,000
Employee Related Expenses	\$167,215
Workstations & Computers	\$15,000
Legal Research Service/Westlaw membership	\$15,000
Expert witnesses/consultation, other litigation related expenses	\$100,000
Total	\$715,252

Alternatives Considered and reasons for rejection: This entire proposal was avoidable had the legislature not included the language above in the budget bills. The Secretary of State was utilizing the Attorney General to the greatest extent possible, and it was the AG who repeatedly declared a conflict in working with the Secretary, requiring the office to procure outside counsel for every post-election lawsuit in 2020 at the expense of the Secretary’s office, despite the AG receiving the election litigation appropriation.

Impact of not funding this fiscal year: By refusing the SOS adequate legal counsel, the Attorney General and Legislature have put the department at risk of not being able to fulfill the responsibilities of the office of Secretary of State and ensure full compliance with all applicable laws. The SOS has had to create a position out of nothing, with no support.

Statutory Reference: SB 1823: general appropriations act; 2021-2022

Equipment to be purchased: 5 Computers

Classification of new positions: 1 General Counsel (AUN07039), 2 Attorney 3 (AUN05465), 1 Paralegal Project Specialist (AUN08617), 1 Intern (S10221)

Annualization: N/A

Funding Issue 6

Preservation of Permanent Records

Description of issue and how recommending the agency's request furthers the agency's mandates: At present, Archives and Records Management are unable to accept records in an electronic format. Considering 99% of all records are now born-digital, this is a crucial problem. Furthermore, this problem is systemic for the entire State of Arizona as the State Archives is the terminal destination of all "permanent" and public records created by government bodies per ARS 41-151.09.

Proposal: The Secretary of State's Office proposes that \$1 million be appropriated for a study/project plan development to be created so that the state can begin to fulfill its obligations to preserve born-digital public records and archives. The funds should be deposited into the Electronic Records Repository Fund (ERRF), as recently established by A.R.S. 41-151.26. In 2019, the legislature passed HB2501 that created the fund to "keep, preserve, secure and make more available" electronic records. The bill also initiated a three-year partnership between the State Archives and the Superior Courts of Arizona, who are funding the Archives' new repository for the first three years while we work exclusively with their records. With funding expiring in 2024, we not only need to secure funding for the future of the digital repository, but also increase its strength and size so that it establishes a long-term solution and provides the people and agencies of Arizona with safe, secure storage of their electronic records.

Alternatives Considered and reasons for rejection: The Department's efforts to establish a solution for the long-term storage of records began in 2006 with a grant-funded project that lasted four years. In 2014, the Secretary of State proposed legislation that would create an ERRF. The bill, SB 1238, also asked for \$1 million in start-up costs from legislative appropriations with an estimated \$500,000 annual cost in staff, software, and resources. The bill did not pass.

When SB 1238 failed, the Secretary of State's office decided to deprioritize digital records and instructed the Archives to encourage state agencies to maintain their own permanent digital records instead. Placing the burden of preserving permanent records on each public entity greatly increases the chance for inconsistencies and the fallibility of records. It is unrealistic and impractical to expect state agencies to maintain intellectual control and access to their inactive digital records for the longevity of their retention schedules, often upwards of 50 years. State agencies lose track of what they have over such a long time, and files and media lapse into obsolescence. Agency and county IT departments have limited funding, and their priority is to keep up with emerging trends in technology and refreshing systems, not maintaining access and authenticity of legacy data on their servers.

By 2018, the Archives sought out partners who also had a need for long-term digital storage and had the ability to help secure funding to begin a digital records program. The Superior Courts initially approached the department about transitioning fully away from microfilm to digital imaging. Once the limitations were explained, they agreed to support legislation to establish an ERRF. In addition, they offered to provide \$75,000 per year for three years while the repository was established if the bill passed. After drafting HB2501, the Arizona Association of Counties also supported the bill.

The resulting pilot project is funded by the Maricopa Clerk of the Superior Court; therefore, the Records and Archives division is only able to work with Superior Court records for the next three years with the current funding provided. For \$75,000 a year, this will fund the software, one staff person and the cloud storage necessary to hold the courts' records. It is anticipated that the pilot project will not only prove

the feasibility of a digital repository, but the necessity as well. The greatest obstacle is long-term funding. As it stands, the ERRF is funded by legislative appropriations and other monies, with no set amount past 2024.

In 2020, before the pandemic, the office engaged in discussions with the Arizona Department of Administration regarding the sale of the current Records Management Center building at 1919 W. Jefferson St. The proceeds from the sale of the building, which housed the state's public records prior to the movement of the public's records to Iron Mountain, seemed to be a viable option for relieving the state of the burden of continuing to hold onto a now empty building, as well as looking towards the future of records management and archives retention. The pandemic put the plan on hold, but the proceeds from the sale of the building should remain a viable option to be considered. Continuing to ignore this problem and relying on agencies to manage their own electronic records will continue to contribute to a "dark ages" for public records.

Impact of not funding this fiscal year: If the Secretary of State's office does not receive funding for continuation of the Electronic Records Repository Fund from the sale of the 1919 building, we will need supplemental funding from the general fund in future fiscal years to do so. Additionally, as stated above, continuing to ignore this problem will create a black hole of public records and archives well into the future. The state must begin to invest in creating a solution for these born-digital records. The state continues to receive calls from state and local authorities about how to help retain their digital records, and as of right now, other than provide some advice, the state Records and Archives Division has no way to support agencies in their efforts.

Statutory Reference: ARS 41-151.09; ARS 41-151.15; ARS 41-151.18; A.R.S. 41-151.26; ARS 44-7041

Equipment to be purchased: N/A

Classification of new positions: N/A

Annualization: N/A

Funding Issue 7

Address Confidentiality Program - New Fund Source

Description of issue and how recommending the agency's request furthers the agency's mandates:

Address Confidentiality Programs were created to protect primarily victims of stalking, domestic violence, and sexual assault, from those who would use public records, such as voter or drivers' license registries, to locate, harass, intimidate, and/or abuse them. The first confidential address program was passed by the Washington State legislature in 1991. Survivors of domestic violence were frustrated with their inability to vote since voter registration records are public and easily available. Survivors had to decide whether to risk being found by an abuser in order to exercise their right to vote, a right that many Americans take for granted. The Washington Secretary of State proposed an innovative solution: Provide survivors with a legal substitute address, accepted by state and local agencies, and a mail forwarding service. These services provided survivors with 1) a way to register to vote and 2) a way to keep their actual address out of all public records.

In 2011, the Arizona legislature established the Address Confidentiality Program (ACP) within the Office of the Secretary of State. Arizona was the 27th state to create a confidential address program. On June 4, 2012, the program began assisting individuals and families impacted by domestic violence, sexual offenses and stalking. Part of the enabling legislation created the ACP Fund, which is made up of a \$50 fine assessed as part of court fines included when there is a conviction for domestic violence, sexual assault, or stalking. When this ACP Fund was created, the fine was used to generate funding to support the cost of providing the statutorily mandated services without relying on general funds from the legislature. At the time, it was customary that this type of fine would be used to fund such a program and some other state ACPs were similarly funded, although not all. Since then, as more is understood about the impact of fines and fees on low-income individuals, and especially on communities of color, the SOS is requesting that this practice of relying on these types of fees be discontinued. The Secretary supports efforts to reform our criminal legal systems and work towards a more restorative approach to addressing these offenses. A fine is incongruent with those efforts. Furthermore, reliance on those fines and fees, especially given the current economic situation of many Arizonans due to the COVID-19 pandemic and resulting loss of income for many of our citizens, is not sustainable. The burden to pay those fines often falls on the victims of the crimes themselves, which only further exacerbates the harm.

Proposal: The Arizona Department of State, Secretary of State's Office – Katie Hobbs and the Address Confidentiality Program proposes replacing the funding from the court fines with \$350,000 from the General Fund.

Alternatives Considered and reasons for rejection: One option would be to maintain the current source of funding, the court fines as described. This proposal is rejected in light of widespread agreement that fines imposed on criminal matters place a burden only on low-income individuals, due to the size of this fine – it is not serving a rehabilitative purpose to anyone who can afford it, yet it can create a financial burden to the family/individual that was harmed due to the nature of the relationships in these crimes.

The Office would consider an alternative fund source, but looks to the executive and legislature to partner to create a fee that would generate around \$350,000 a year for this purpose, that would be in line with the program's intent and goals.

Impact of not funding this fiscal year: If general fund is not provided, or another fund source not identified, we would maintain the current fee structure outlined in statute.

Statutory Reference: ARS 41-161 – 41-169

Equipment to be purchased: N/A

Classification of new positions: N/A

Annualization: N/A

Funding Issue 7
Address Confidentiality Program - New Fund Source
Full Accounting of Program Revenues & Expenditures

The below accounting of our revenue and expenditures for the Address Confidentiality Program is based on our statutorily mandated services, which are paid for using the revenues from the court fines/fees, and our enhanced services which are paid solely out of the funding we receive from federal grants (VOCA) that are never guaranteed. The SOS' operating lump sum also pays some of the program's operating expenditures, including rent. VOCA is a competitive RFP from AZ DPS that we apply for every 3 years and is variable in dollar amount and dependent on what is in the Federal VOCA account and how the state grant administrator, AZ DPS, determines how the applications will be scored and divided. The percentage charged to each bucket of funding fluctuates from year to year because the amount awarded under VOCA changes each federal fiscal year. Generally, the fee covers around \$350,000 in expenditures related to carrying out basic statutory duties, the operating lump sum pays over \$60,000 in operating expenditures, and VOCA expenditures vary based on the budget amount awarded for the period.

Our enhanced services under the VOCA grant include safety planning with our participants/victims of domestic violence, sexual offences, and stalking who are at a continual risk of being located by their stalker; advocating on behalf of individual participants on the use of their substitute address with government agencies and employees who are unclear about their obligations under ACP statutes, communication with state and local government agency employees, attorneys, and public agencies on how best to apply the ACP statutes to their ACP policies and procedures and discuss in court, safety planning materials to participants, safety materials to application assistants throughout the community working directly with survivors throughout Arizona, translation of all ACP materials, and much more.

FY 2019 - Actual				
Revenue				
Fee	\$270,856			
VOCA	\$294,023			
Total:	\$564,879			
Expenditures				
	Fee	VOCA	SOS OLS	Total
PS	\$139,576	\$79,772	\$0	\$219,348
ERE	\$43,778	\$28,055	\$0	\$71,833
P&O	\$19,846	\$96,486	\$48,121	\$164,453
Travel	\$3,643	\$1,272	\$230	\$5,145
OOE	\$57,885	\$5,822	\$57,643	\$121,350
Equipment	\$5,150	\$40,997	\$2,383	\$48,530
Transfer	\$37,803	\$0		\$37,803
Total:	\$307,681	\$252,404	\$108,377	\$668,462

FY 2020 - Actual				
Revenue				
Fee	\$263,683			
VOCA	\$150,527			
Total:	\$414,210			
Expenditures				
	Fee	VOCA	SOS OLS	Total
PS	\$158,157	\$84,013	\$14,663	\$256,833
ERE	\$50,039	\$27,875	\$6,841	\$84,755
P&O	\$2,752	\$16,970	\$1,731	\$21,453
Travel	\$4,218	\$2,788	\$175	\$7,181
OOE	\$79,154	\$2,445	\$59,284	\$140,883
Equipment	\$1,103	\$2,294	\$148	\$3,545
Transfer	\$0	\$0	\$316	\$316
Total:	\$295,423	\$136,385	\$83,158	\$514,966

FY 2021 - Actual				
Revenue				
Fee	\$297,255			
VOCA	\$230,878			
Total:	\$528,133			
Expenditures				
	Fee	VOCA	SOS OLS	Total
PS	\$173,217	\$121,748	\$8,591	\$303,556
ERE	\$62,063	\$48,396	\$4,411	\$114,870
P&O	\$5,018	\$49,747	\$328	\$55,093
Travel	\$1,130	\$0	\$0	\$1,130
OOE	\$100,046	\$2,329	\$62,473	\$164,848
Equipment	\$0	\$363	\$367	\$730
Transfer	\$0	\$0	\$0	\$0
Total:	\$341,474	\$222,583	\$76,170	\$640,227

FY 2022 - Projection				
Revenue				
Fee	\$300,000			
VOCA	\$232,800			
Total:	\$532,800			
Expenditures				
	Fee	VOCA	SOS OLS	Total
PS	\$174,000	\$122,000	\$0	\$296,000
ERE	\$63,000	\$49,000	\$0	\$112,000
P&O	\$6,000	\$50,000	\$500	\$56,500
Travel	\$5,000	\$3,000	\$0	\$8,000
OOE	\$100,000	\$3,000	\$63,000	\$166,000
Equipment	\$1,000	\$3,000	\$400	\$4,400
Transfer	\$0	\$0	\$0	\$0
Total:	\$349,000	\$230,000	\$63,900	\$642,900

Funding Issue 7
Address Confidentiality Program - New Fund Source
Full Accounting of Program Revenues & Expenditures

Do not print this page