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BUDGET PRESENTATION

HOUSE APPROPRIATIONS – EDUCATION & ENVIRONMENT COMMITTEE
REPRESENTATIVE MIKE NATHE, CHAIRMAN

SENATE BILL NO. 2002
MARCH 7, 2023

TESTIMONY PRESENTED BY

MICHAEL HOWE, SECRETARY OF STATE

Chairman Nathe and members of the committee, I'm Michael Howe, Secretary of State. Over my first few weeks in office, I have been working to better understand the needs of our team. I am here to provide you greater insights into our budget and the anticipated changes we see on the horizon.

We will be asking for your support of the recommendations brought forth by the Senate and have additional asks to ensure two areas of agency need are addressed:

1) Funding all positions from general fund sources to maintain critical agency roles, and
2) Support for one-time and on-going technology needs in the agency which support critical business and licensing functions, and systems dedicated to statewide election administration functions.

AGENCY OVERVIEW

The Office of the Secretary of State conducts a wide range of licensing, regulatory, registration and administrative functions. We also serve as the office of record for certain legal documents generated by the executive and legislative branches of state government, as well as public records and notices involving various business entities.

The Office of the Secretary of State also works with North Dakota's 53 counties to administer and protect the integrity of our election process. Statewide election results are made available through the Secretary of State's elections website – Vote.ND.Gov.

STATUTORY AUTHORITY

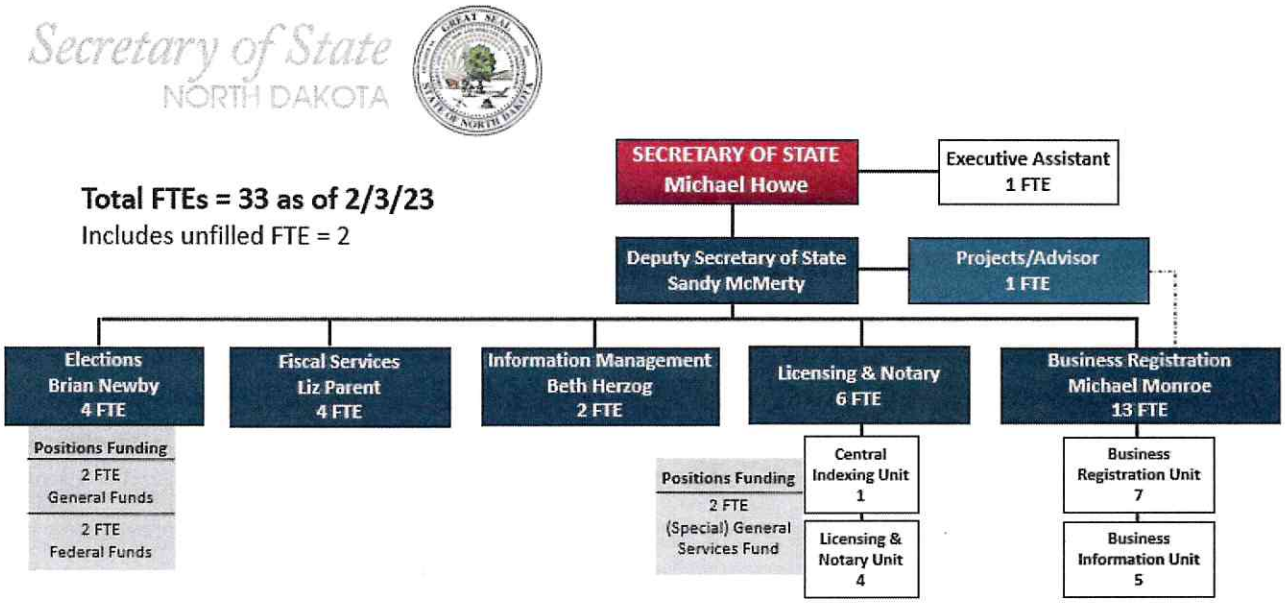
Our statutory authority can be found in the following:

- NDCC Title 10 Corporations;
- NDCC Title 16.1 Elections;
- administration of varied liens in 35-01, 35-05, 35-17, 35-21, 35-29, 35-30, 35-31;
- oversight of Uniform Commercial Code in 41-09;
- licensing of contractors in 43-07;
- registration of notaries in 44-06.1;
- registration of partnerships in 45-10.2, 45-11, 45-22, 45-23;

- registration of trademarks and trade names in 47-22, 47-25;
- registration of charitable organizations in 50-22;
- serve as commissioner of combative sports in 53-01;
- registration of lobbyists in 54-05.1; and
- documents recorded by the office in 54-09.

ORGANIZATIONAL STRUCTURE

The Office of Secretary of State is currently authorized for 33 full-time equivalent (FTE) employees – 29 FTEs – general fund supported, 4 FTEs – special/federal fund supported. A breakout of positions is provided in the below organizational chart.



AUDIT FINDINGS

Operational Audit for the Two-Year Period Ended June 30, 2020 – **Finding lack of revenue reconciliation.** This recommendation is partially implemented. Reconciliation of fees recorded from our systems were not appropriately being reconciled against those same fees as they flowed through the Bank of North Dakota and were deposited and entered into the PeopleSoft (state) system. A discrepancy of $74,211 was discovered in the reporting which involved no misplaced funds. A monthly reconciliation has been developed and is in the testing phase. Plans include building an interface between Secretary of State and PeopleSoft system to further eliminate reconciliation errors.

Voting Security Assessment Audit 2022 – The Office of the State Auditor looked at six potential vulnerabilities with possible threat scenarios and determined a risk score for each. All scenarios were determined to be low risk. I am quoting our state auditor, he said "our election systems are incredibly secure across the state."

Operational Audit for Two-Year Period Ended June 30, 2022 – Scheduled to begin March 2023.

NEXT BIENNIUM CHALLENGES & GOALS

Future challenges affecting the Office of the Secretary of State include:

TECHNOLOGY SUPPORT – The implementation of FirstStop and Central Indexing systems has modernized filings and licensing at the Secretary of State's (SoS) office. These and other systems need continued funding support to ensure adequate maintenance, necessary upgrades, and enhancements to improve user-experience. Our budgetary ask includes both one-time (implementation) and ongoing (maintenance/enhancement) general fund support for technology to begin addressing these concerns.

In the past, the agency has relied on special funds to support technology needs, however the agency's special fund is based on a select number of fees SoS can retain under statute which generates approximately $1.5 to $2.0 million each biennium. We recognize this is no longer sufficient to sustain the technology needs of the agency long-term across multiple platforms needed to conduct our work in business and elections. Technology systems needed to manage both business and election functions require robust functionality with workflows, comprehensive reporting, enhanced security, and user-friendly public facing platforms to support the agency's efforts to better serve our citizens.

The SoS is facing the end-of-life of for critical systems over the next few years. Newer software platforms maintained by the agency need system upgrades, and other systems are at risk of no longer being supported. Systems identified that need to be replaced/upgraded include:

- **Election Related Technology**: campaign finance system, election management systems (includes ND Voices, election night reporting, etc.), various election equipment
- **Business Related Technology:** upgrades/enhancements to FirstStop and Central Indexing Systems, combative sports tracking software, main website rebuild, online notary management solution

ELECTION ENHANCEMENTS – North Dakota has always operated elections with integrity and the ND State Auditor recently found, after an extensive review, that our election systems are incredibly secure across our state. We do however believe this office can continue to improve processes and voter knowledge. Education, training, and materials to support our election officials and growing voter knowledge and confidence will be a focus of this administration into the future. These efforts will help create transparency and further protect election security.

REPLACEMENT OF FEDERAL HELP AMERICA VOTE ACT (HAVA) DOLLARS – FUNDING WITH GENERAL FUND SUPPORT – Over the last several biennia, North Dakota has relied on Federal HAVA – Help America Vote Act – funding to support the purchase of critical election equipment and funding of 2 FTEs in election staffing. The Federal government has signaled that there is no guarantee that HAVA dollars will be continuing after 2023. The duties of these federally supported employees will not go away and are critical to administering North Dakota elections. If the state of North Dakota provides no additional support, HAVA dollars will be expended by 2027. Critical election staffing and the continued maintenance of election systems and equipment – poll pads, ballot scanners, cradle points, etc. – currently costs about $1.1 million each biennium.

GENERAL FUND SUPPORT FOR CRITICAL STAFFING – SoS has salaries for 4 FTEs being supported by funding sources that are not stable or adequate for long-term sustainability. The 2 FTEs who provide critical election

support mentioned in the above Federal HAVA section are funded with federal funds, and 2 FTEs who work in our Licensing and Central Indexing unit are fully funded with special funds. The agency is asking for general fund support for all 4 FTEs to be able to sustain critical positions long-term regardless of funding source and redirect special funds to their intended purpose of supporting technology and elections in the agency.

SOS RESPONSIBILITY LEVEL INCREASES – With the modernization of processes in the agency, the skillsets and responsibilities of our employees have changed significantly. The appropriate classification of these positions, along with salary reflective of the position, and the ability to address compression issues are necessary to future recruitment and retention efforts. The agency made a repurpose and reclassify ask based on this need.

AGENCY OPERATIONS BUDGET

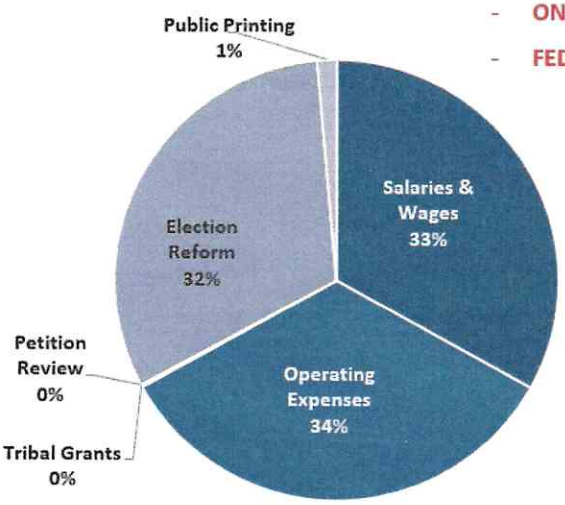
2021-23 Base Budget Comparison to 2023-2025 Senate Recommendation

The Secretary of State relies on people and technology to perform the work the legislature has directed. The agency's appropriation for the 2021-23 biennium was $5.5 million with 88 percent of the general fund authority directed to salaries and wages. Operating expenses made up approximately 7 percent of our general fund spending authority, with special funds covering 78 percent of operating costs.

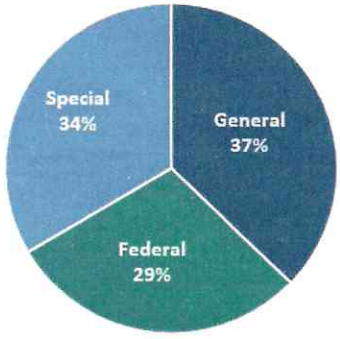
	2021-2023 Legislative Base Level	2023-2025 Senate Recommendation	$ Increase/ (Decrease) compared to Legislative Base
Salaries and Wages	5,528,082	6,328,326	800,244
Operating Expenses	3,308,424	6,484,331	3,175,907
Grants	25,000	25,000	-
Petition Review	8,000	8,000	-
Election Reform	4,699,689	6,024,060	1,324,371
Public Printing	257,931	271,335	13,404
Total Line Items	**13,827,126**	**19,141,052**	**5,313,926**
By Funding Source			
General Funds	5,521,552	7,107,977	1,586,425
Federal Funds	3,121,865	5,626,080	2,504,215
Special Funds	5,183,709	6,406,995	1,223,286
Total Funding Source	**13,827,126**	**19,141,052**	**5,313,926**
FTE	**33**	**34**	**1**

2023-25 SENATE RECOMMENDATION - $19.1 M INCLUDES:

- ONE-TIME SIIF FUNDING - $1.5 M
- FEDERAL 2023 HAVA - $1 M



BY SOURCE - $19.1 M



STAFFING – FTE – SENATE RECOMMENDATION

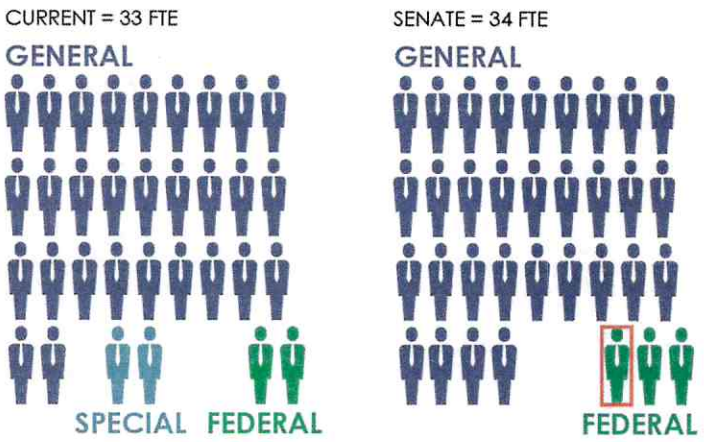
The agency is authorized for 33 full-time equivalent (FTE) positions for the 2021-23 biennium, of which 29 FTEs were supported through general funds, 2 FTEs through special funds, and 2 FTEs through federal funds.

The Senate recommendation provided $479,143 in general fund salary support for 2 FTEs currently funded by special funds. The special funds made available through this shift will help support a portion of technology needs as requested by the agency. Special funds retained by the agency were intended to support technology.

The Senate also created authority for $200,950 in federal funds to support 1 new FTE to aid in elections.

The Senate recommendation also supported $100,000 in increases for the repurposing of positions which have changed responsibilities due to the move to more technology-based skillsets, funding for salary, health, and benefit increases, as well as an equity increase of $26,748 for the Secretary of State.

FTE COMPARISON CURRENT V. SENATE



SENATE – FTE/SALARY SHIFT CHANGES

The Senate Recommendation provided:

- **Shifted $479,143 from special to general fund salary support for 2 FTEs currently funded through special funds**
- **1 FTE supported by authority of $200,950 in federal funding for salary and related operating expenses for election support**
- **Supported $100,000 in salary for repurposing and reclassification of positions for increased skillsets**

OPERATIONS – SENATE RECOMMENDATION

The Office of the Secretary of State operations base budget provides general office support across the agency – travel, NDIT costs, printing/postage, etc. The base budget operating expenses of $3,308,424, includes $391,570 in general funds, with $2,916,854 coming from special funds, which includes some carry-over funding for IT projects with existing contract obligations.

The Senate recommendation includes the following additions to operations:

- $1.5 million – one-time funding from the SIIF Fund for technology systems – campaign finance software solution, IT contract support, website rebuild
- $330,000 ($165,000 general fund + $165,000 special funds) – purchase of a text-messaging platform and ongoing support for maintenance
- $200,000 – State match dollars to secure $1 million in Federal HAVA funding in 2023
- $201,331 – OMB rent model for space maintained in the Capitol and Judicial Wing

SENATE – OPERATION CHANGES

The Senate Recommendation provided:

- **$1.5 million - SIIF one-time funding for technology projects**
- **$330,000 – support for on-going IT maintenance and procurement of text messaging system**
- **$1 million – federal authority to receive 2023 HAVA election related funding**
- **$200,000 – state match for Federal funding**
- **$389,342 – restoration of authority for federal funds already received (error in Gov. Rec.)**
- **$13,404 – increase in public printing**
- **$201,331 – OMB rent model for capitol space**

FEDERAL FUNDS – The Office of Secretary of State receives Federal Help America Vote Act (HAVA) funds to continue to improve voter access and election administration.

The Secretary of State will have approximately $4,000,000 of Help America Vote Act federal funds available for the 2023-2025 biennium, and the opportunity to access an additional $1,000,000 with a $200,000 general fund match in March 2023. The purpose of the funds is to improve the administration of elections for Federal office, including to enhance election technology and make election security improvements to the systems, equipment and processes used in federal elections.

A breakdown of Federal Help America Vote Act funds and state matches is below.

	Federal Advance	Fed Exp to 9/30/2022	State Match	State Exp to 9/30/2022
2020 HAVA	$ 3,000,000		$ 600,000	$ 600,000
2022 HAVA	$ 100,000		$ 200,000	$ 59,700
Total Remaining	**$ 4,000,000**		**$ 800,000**	**$ 659,700**
	Dollars available with 20% match in March 2023.			
2023 HAVA	$ 1,000,000		$ 200,000	

Spending projections for the currently available $4,000,000 in HAVA funds are broken down below. If general fund support for staffing is provided, staff dollars will be redirected to education/training efforts.

- 2023-25 Biennium - $2 million (estimated)
  - Elections Software/Equipment - $1.65 M
  - Staffing - $330,000
  - Supplies/Support - $50,000
- 2025-27 Biennium - $2 million (estimated)
  - Elections Software/Equipment - $1.65 M
  - Staffing - $330,000
  - Supplies/Support - $50,000

The Senate recommendation supports:

- $1 million – authority for Federal HAVA funds received in 2023 (20% state match noted above)
- $389,342 – restoration of authority for federal dollars already received; these funds were mistakenly removed in the Governor's Budget Recommendation as part of an FTE request

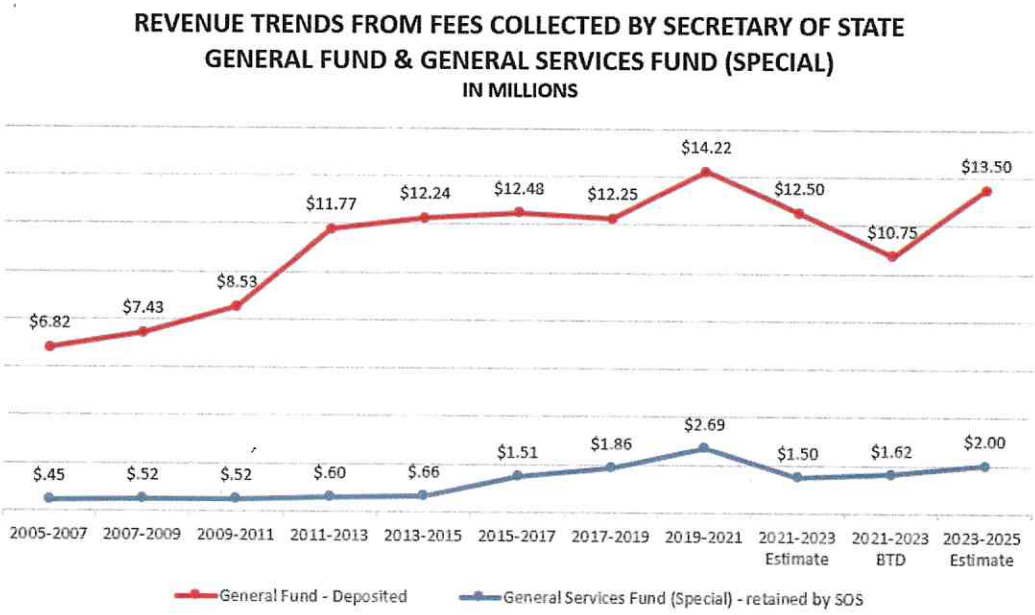
PUBLIC PRINTING - SoS is responsible for the distribution of publications known as "public printing". The appropriation is directly related to the cost of printing the North Dakota Century Code, Session Laws, and the North Dakota Administrative Code. A small portion of funding is used to cover costs related to mailing, supplies, etc. The appropriation to cover the cost of publishing and distribution is based on a recommendation from the Legislative Council, which has the legal responsibility for preparing, supervising, contracting, and communicating with the various publishers and vendors regarding these publications. The Senate recommendation supports:

- $271,335 – estimated public printing, increase of $13,404

GRANTS – The agency has $25,000 in its grant line available for requests from North Dakota's tribes to support tribal access to voting.

Agency Collections – General Fund & General Service Fund (Agency Special Fund)

Revenue forecasts for the 2023-2025 biennium were increased based on historical trends, General Fund was increased from $12,500,000 to $13,500,000. Below is 20-year look at revenue trends from the Office of Secretary of State.



The work of the Office of Secretary of State generates approximately $14 million in revenue from our business and licensing services. Approximately $12 million stays in the general fund, and $1.5 - $2 million is transferred to the agency's special fund for use based on specific fees allowed to be retained by the agency in statute to aid in supporting technology. (Fees retained include a portion of central indexing fees, and revenue gained from the sales of lists or records.)

A comparative look at the common types of filings this office processes is included below. These numbers include total actions, which are the results of both new and renewals of certain licensing, registrations, etc.

SECRETARY OF STATE BUSINESS FILINGS
10-YEAR COMPARISON – 2011 – 2021

	2011	2021	2011-2021 Increase	Percentage Change
Licensing Unit				
Contractor Licenses/Renewals	8,824	11,082	2,258	26%
Home Inspector Licenses/Renewals	107	156	49	46%
Lobbyists (for biennium)	666	638	(28)	-4%
Charitable/Prof. Fundraisers	1,479	2,507	1,028	70%
Notary Commissions (Total)	13,125	14,714	1,589	12%
Central Indexing Unit				
Total Filings - UCC/Liens/etc.		148,134		
Business Registration/Information Unit				
Corporations	39,310	42,108	2,798	7%
Limited Liability Companies/Partnerships	20,657	45,226	24,569	119%
Trademarks/Trade Names	24,207	34,099	9,892	41%

2023-25 Biennium – Agency Requests Compared to Senate Recommendation

There are several areas the Secretary of State's office needs to address to continue to provide high-value customer service through its staffing and citizen-facing digital systems.
The SoS requests support of Senate recommendations as well as additional support as noted.

SALARY & EQUITY REQUEST

Staffing Repurpose/Reclass - The SoS needs to address compression issues and the resulting salary increases needed for higher-level skillsets required for digital processing. Continued risk of losing staff to positions of a similar nature with higher salary lessens our ability to recruit staff, and build and retain knowledge long-term, which is critical for agency success and future efficiencies. The OMB Budget also includes $75,000 in the $90 million equity package for Secretary of State. Currently, nearly 50% of the Secretary of State staff earn less than $46,000 per year and as of January 1, 18% have less than 1 year of service with the agency.

SUPPORTED BY SENATE
- $100,000 – repurpose and reclassify positions for higher-level skillsets

SoS ADDITIONAL REQUEST
- Support $75,000 in OMB Budget Equity Package

STAFFING REQUEST

Proposed Shift in FTE Funding (SPECIAL) – The Senate recommendation supported shifting funding for 2 employees paid from special funds to general fund support in the amount of $479,143. This funding shift provides agency flexibility for better salary administration and allows special funds to be directed toward their original intended purpose of supporting technology needs in the agency.

SUPPORTED BY SENATE
- Shift $479,143 in salaries to general funds from special funds

Proposed Shift in FTE Funding (FEDERAL) – Under the Senate recommendations, the agency received 1 new FTE for elections supported by federal funds, however, federal funds are not a long-term solution. The agency already has two positions that receive no general fund support. These positions (current and new FTE) all support election administration in North Dakota. Due to the critical nature of these positions, we are seeking more appropriate salary administration support as federal funding is in jeopardy. The agency intends to apply the state match of $200,000* to the salary of the new FTE – $200,950 – and requests that the remaining two federal positions – current 2 FTEs - $362,111 – be shifted to be paid from general funds. This shift in funding will allow redirection of federal funds to support enhanced education and training efforts in elections.

SUPPORTED BY SENATE
- $1 million in authority to accept 2023 Federal HAVA funds
- $200,000* – 20% match from general fund for $1 Million above
  - 1 FTE – Elections - $200,950 from Federal funds (+ *state match)

SoS ADDITIONAL REQUEST
- Shift $362,111 in salaries to general fund from federal funds for 2 current FTEs in Elections

New FTE Request – The agency's technology needs continue to grow as does the need for in-house expertise. The agency is requesting support for 1 new FTE in information management to assist in implementing new campaign finance technology and to secure agency system expertise for long-term maintenance of technology systems - $180,000.

SoS ADDITIONAL REQUEST
- 1 new FTE – Technology Support - $180,000

TECHNOLOGY NEEDS REQUEST

A summary of technology related projects includes:

- **Campaign Finance System** – Replacement of this system is needed as the current software was initially built with a minimal budget and has limited functionality. The vendor who originally programmed the system no longer offers campaign finance software and North Dakota is the company's only customer.
- **Ongoing Software Support/Maintenance** – FirstStop, Central Indexing, and other software systems have on-going costs for licensing, upgrades, and general system maintenance. These costs do not cover enhancements or customizations to create greater efficiencies, ease of user experience, or implementation of any prescribed legislative changes. Additionally, past legislative efforts have required us to support these systems with limited fees allowed to be retained by the agency. These fees average approximately $1.5 M per biennium, which is insufficient to support multiple digital systems, websites, and enhancements. The agency currently has a listing of over 50 enhancements to create greater user-friendliness that require funding for contracted services outside of our maintenance contract for FirstStop. These enhancements benefit the state's businesses and lending authorities and create ease of doing business in North Dakota.
- **Increased NDIT Application Hosting Costs** – Support for increased hosting fees for systems residing on NDIT servers.
- **User Experience Enhancements** – The Office of Secretary of State will be moving its existing website to the State platform in the coming biennium. Our office currently maintains multiple sites and systems, none of which feel cohesive to one brand. The redesign of sites will include bringing the main website, as well as our election website, into one unified platform for users to find valuable information regarding the services provided by the agency. In addition, as a benefit to the citizens of North Dakota, businesses, licensees, candidates, elected officials, and others utilizing our services, the agency seeks to implement a text message notification system. Users would be able to opt-in to the service and receive notifications, such as filing deadlines, voter information, candidate information, and more via text message. This would allow the public the ability to direct how they wish to receive information and alert them to important deadlines or news items, thus enhancing transparency in and access to government.
- **Election Compliance & Modernization** - Expectations upon county election administrators (county auditors) and the Office of Secretary of State have increased significantly since the Help America Vote Act passed in 2002. North Dakota has made critical investments for meaningful reform in providing support for the Central Voter File and Election Management System, and new voting equipment and electronic pollbooks approved and funded by the legislature in 2019. Resources are needed to continue to improve the election process, including training, standardization of processes and expectations, as well as supporting voter education materials. The Office of Secretary of State anticipates that ND Voices critical election administration systems may be at an end-of-life situation as their current vendor was bought out

SUPPORTED BY SENATE

- $1.5 million SIIF – One-Time Funding
  Campaign finance, web restructure
- $330,000 – support for on-going IT needs, text-messaging solution

SoS ADDITIONAL REQUEST

- $5 million – One-Time Funding for:
  - IT End-of-Life Replacement – ND Voices – election management
- $1 million – FirstStop Upgrade
  - Business/licensing system software upgrade – 2 version lift

by another supplier who may or may not continue to support the platform. This includes the ND Voices systems which interacts with all 53 counties and supports the following:

- Overall Election Management
  - Central Voter File Database
  - Petition Management
  - E-Pollbook Interface
  - Precinct/Polling Location Management
  - Voter/Election Worker Assignment
  - Equipment Assignment to Polling Locations
  - Ballot Creation
  - Candidate Management
  - Absentee/Vote by Mail
  - Military Voting
  - Canvassing Report Generation
  - Election Night Reporting

ONE-TIME FUNDING REQUESTS

2021-23 One-Time Funding Requests – No one-time funding requests were included in the current biennium.

2023-25 One-Time Funding Requests

- $1.5 million of one-time funds are being requested in the Senate Recommendation from Strategic Investment Fund (SIIF) for the replacing campaign finance system and contracted services for IT enhancements (website restructure).

- $6 million of one-time funds are being requested to address replacement of ND Voices – comprehensive election management system – and needed upgrades to FirstStop business/licensing services solution.

AGENCY FLEXIBILTY REQUEST – LINE-ITEM TRANSFER

The Senate recommendation includes language in Section 5 which grants authority for line-item transfers in our appropriation bill in a total amount not to exceed $100,000 to enhance the flexibility and our ability to leverage the entirety of our budget to meet our needs

BILLS THAT MAY HAVE FISCAL IMPACT

The following bills may have fiscal implications for the Office of Secretary of State:

SB 2372 – Watershed Districts
HB 1191 – Auctioneer Licensing
HCR 3031 – E-petitions
HB 1327 – Corporate Farming
Campaign Finance Related Bills - varied

FEDERAL FISCAL RECOVER FUND STATUS

The Secretary of State received no fiscal recover funding during the November 2021 special session.

Appendix A

AGENCY REQUEST COMPARED TO SENATE RECOMMENDATION

	2021-2023 Legislative Base Level	2023-2025 Senate Recommendation	2023-2025 Revised Agency Request	$ Increase/ (Decrease) compared to Senate Recommendation
Salaries and Wages	5,528,082	6,328,326	6,508,326	180,000
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Total Line Items	**13,827,126**	**19,141,052**	**25,683,163**	**6,542,111**
			*	
By Funding Source				
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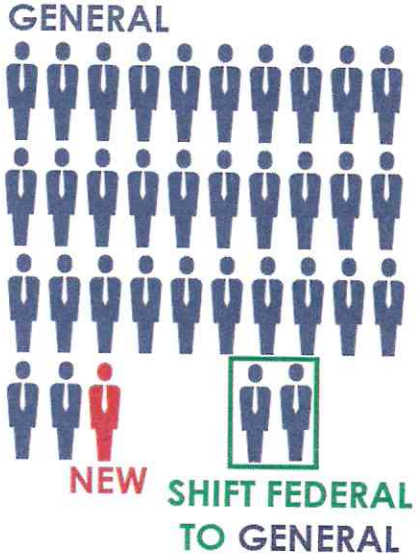
Federal Funds	3,121,865	5,626,080	5,626,080	-
Special Funds	5,183,709	6,406,995	6,406,995	-
Total Funding Source	**13,827,126**	**19,141,052**	**25,683,163**	**6,542,111**
FTE	**33**	**34**	**35**	**1**

SECRETARY OF STATE – REQUESTS

The agency requests consideration for the following additions to the Senate recommendation:

- **Shift $362,111 from federal to general fund salary support for 3 FTEs currently funded through federal funds**
- **Additional 1 FTE for IT Support - $180,000**
- **$6 million one-time support replacement for ND Voices (election administration management) and upgrades to First Stop (business/licensing)**

AGENCY FTE ASK

NEW - 1 ADDITIONAL FTE