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BUDGET PRESENTATION

SENATE APPROPRIATIONS COMMITTEE

SENATOR BRAD BEKKEDAHL, CHAIRMAN

SENATE BILL NO. 2002
JANUARY 13, 2023

TESTIMONY PRESENTED BY

MICHAEL HOWE, SECRETARY OF STATE

Chairman Bekkedahl and members of the Senate Appropriations Committee. I am Michael Howe, and I am honored to be serving as North Dakota's 15th Secretary of State. As this is officially my 13th day on the job, my budget testimony today will be a combination of plans we currently have and an ask for a little latitude as I work to better understand the needs of our office and team.

The Secretary of State's Office works to preserve and protect election integrity and promotes North Dakota as the easiest place to start and grow a business. We conduct a wide range of licensing, regulatory, registration and administrative functions, and provide guidance and oversite for statewide elections. 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.

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.

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%

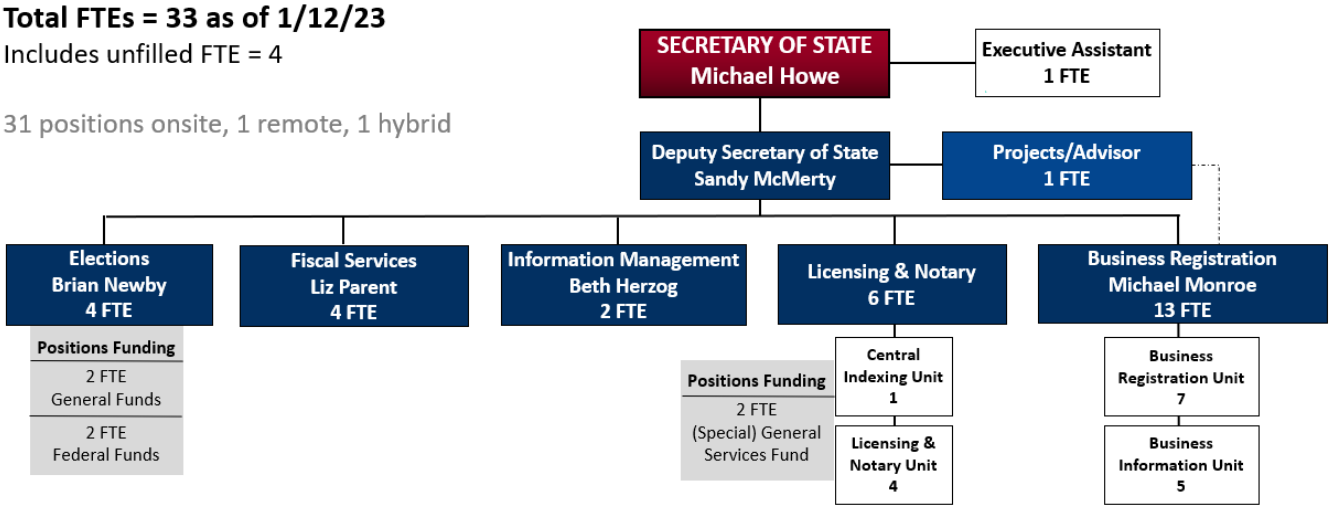
The Office of the Secretary of State also works with North Dakota's 53 counties to administer and protect the integrity of our elections process. Statewide election results are made available through the Secretary of State's elections website – Vote.ND.Gov.

The Office of Secretary of State is currently authorized for 33 FTEs. A breakout of positions is provided in the below organizational chart.

Secretary of State
NORTH DAKOTA

Total FTEs = 33 as of 1/12/23
Includes unfilled FTE = 4

31 positions onsite, 1 remote, 1 hybrid



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 ConnectND (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. Future plans include building an interface between Secretary of State and ConnectND 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 – Audit not yet scheduled.

CURRENT BIENNIUM ACCOMPLISHMENTS

In addition to executing the official duties with integrity and financial responsibility, Secretary Jaeger and the team accomplished many important objectives during the past two years which included modernization of business filings, reorganization of business services and several legislative changes.

CHALLENGES & NEXT BIENNIUM GOALS

Below are affecting the Office of Secretary of State and more information on these along with funding asks is included in the 2023-25 Biennium – Listing of Requests Compared to Executive Recommendation which is found on page 9.

Technology Support – The implementation of FirstStop and Central Indexing systems has modernized filings and licensing at the Secretary of State's office. Adequate funding to support maintenance and enhancements is a continued need to improve the user experience and make necessary upgrades to this and other systems, such as the campaign finance system, combative sports tracking software, and website restructuring. Systems that are user-friendly across all our customer platforms are critical to the agency's efforts to better serve our citizens.

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 elections 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.

SoS Responsibility Level Increases – Repurpose/Reclass – 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. We also have salaries for 4 FTEs being supported by funding sources that are not stable or adequate for long-term sustainability. Greater information about this challenge can be found in the Staffing area of this testimony on page 8.

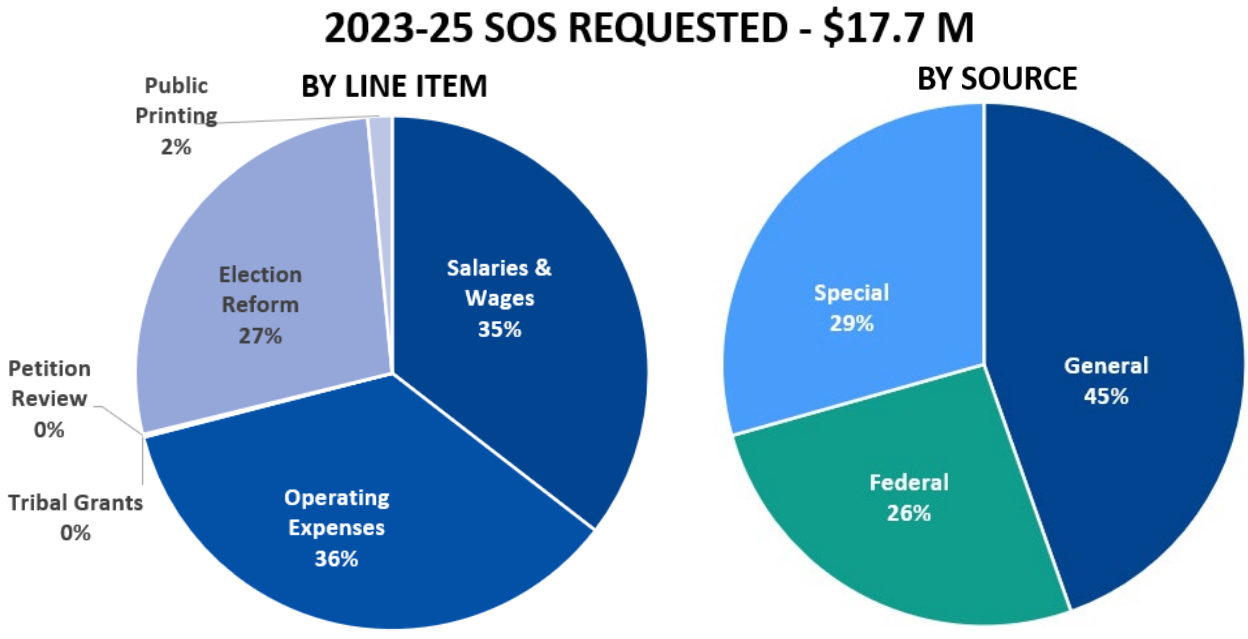
Agency Operations Budget

2021-23 Base Budget Comparison to 2023-2025 Request/Executive Recommendation

The Secretary of State relies on people and technology to perform all of 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. The agency was authorized for 33 full-time equivalent positions for the 2021-23 biennium, of which 29 FTEs were supported through general funds, and 4 FTEs through special (2 FTEs) or federal funds (2 FTEs). Operating expenses made up approximately 7 percent of our general fund spending authority, with special funds covering 78 percent.

BASE COMPARED TO AGENCY REQUEST

	2021-2023 Base Level	2023-2025 Agency Request	Incr(Decr)	% Chg
Salaries and Wages	5,528,082	6,274,284	746,202	13.5%
Operating Expenses	3,308,424	6,283,000	2,974,576	89.9%
Grants	25,000	25,000		
Petition Review	8,000	8,000	-	0.0%
Election Reform	4,699,689	4,827,240	127,551	2.7%
Public Printing	257,931	271,335	13,404	5.2%
Total Line Items	**13,827,126**	**17,688,859**	**3,861,733**	27.9%
By Funding Source				
General Funds	5,521,552	7,889,425	2,367,873	42.9%
Federal Funds	3,121,865	4,602,850	1,480,985	47.4%
Special Funds	5,183,709	5,196,584	12,875	0.2%
Total Funding Source	**13,827,126**	**17,688,859**	**3,861,733**	27.9%
FTE	**33**	**37**	**4**	

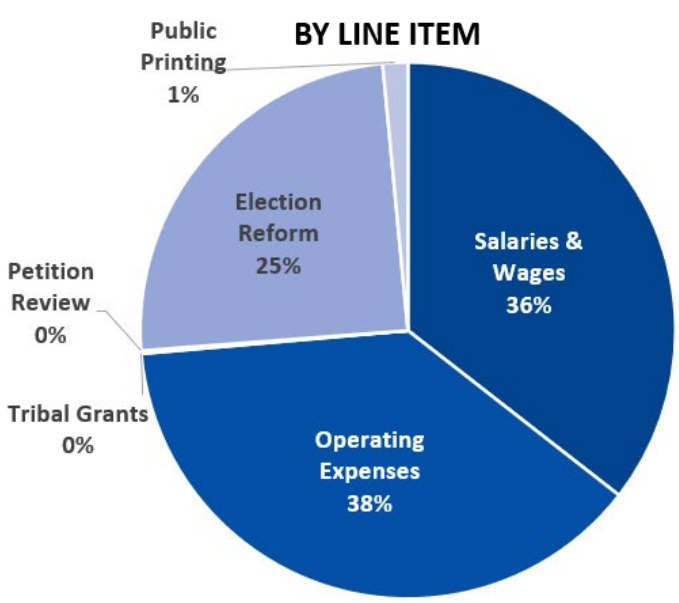


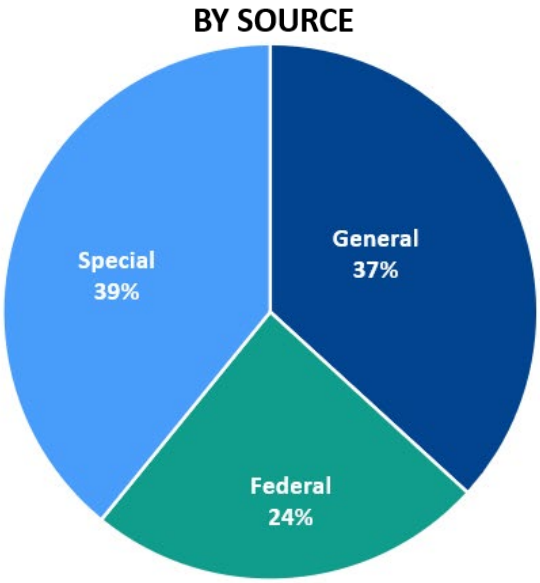
AGENCY REQUEST COMPARED TO EXECUTIVE RECOMMENDATION

	2023-2025 Biennium Agency Request	2023-2025 Executive Recommendation		Incr(Decr)	% Chg
Salaries and Wages	6,274,284	6,387,440		113,156	1.8%
Operating Expenses	6,283,000	6,484,331		201,331	3.2%
Grants	25,000	25,000			
Petition Review	8,000	8,000		-	0.0%
Election Reform	4,827,240	4,437,998		(389,242)	-8.1%
Public Printing	271,335	271,335		-	0.0%
Total Line Items	**17,688,859**	**17,614,104**		**(74,755)**	-0.4%
By Funding Source					
General Funds	7,889,425	6,478,402	*	(1,411,023)	-17.9%
Federal Funds	4,602,850	4,245,109		(357,741)	-7.8%
Special Funds	5,196,584	6,890,593		1,694,009	32.6%
Total Funding Source	**17,688,859**	**17,614,104**		**(74,755)**	-0.4%
FTE	**37**	**34**		**(3)**	

*One-Time Funding - provided from SIIF Funds in Executive recommendation.

2023-25 EXECUTIVE RECOMMENDATION - $17.6 M





LEGISLATIVE BASE 2023-2025 COMPARED TO FUNDING SOURCE

	21-23 Leg Base	EXECUTIVE RECOMMENDATION BY SOURCE FUNDING	General	Special	Federal	23-25 Exec Rec
Salaries	5,528,082.00		5,429,154	596,175	362,111	6,387,440
Operating	3,308,424.00		744,913	5,739,418	-	6,484,331
Grants	25,000.00		25,000			25,000
General - Petition	8,000.00		8,000			8,000
Election Reform	4,699,689.00			555,000	3,882,998	4,437,998
Public Printing	257,931.00		271,335			271,335
Grand Total By Fund per Bill	17,786,861.00		**6,478,402**	**6,890,593**	**4,245,109**	**17,614,104**

SPECIAL FUND – GENERAL SERVICES FUND - The agency has a special funds line – General Services Fund - which is the supported by fees received from select number of UCC licensing, filings, and for information subscriptions available from the agency. The general services fund (special fund) generated about $14 million in the current biennium, of which $1.5 million was retained by the agency with $12.5 million from fees being deposited to the general fund.

Technology advancements in the agency have helped increase productivity, provide more efficient services for the public, and aid in maintaining the thousands of records associated with approximately 100 diverse categories of filings. Technology costs to maintain multiple systems will now outpace the revenue received in this fund, no longer making it a viable option as the only support funding for technology maintenance and user experience enhancements to systems. General fund support is needed to ensure the integrity of technology systems into the future, or greater fees from this line need to be retained by the agency to support systems.

Systems currently supported by these special funds include:

- Central Indexing System (CIS) – maintains all filings related to various personal property liens to be completed electronically online - approximately 350,000 files.
- FirstStop – the engine for business with approximately a 100 types of business filings – the continued implementation, enhancements, and maintenance.
- Website maintenance and any enhancements/customizations.

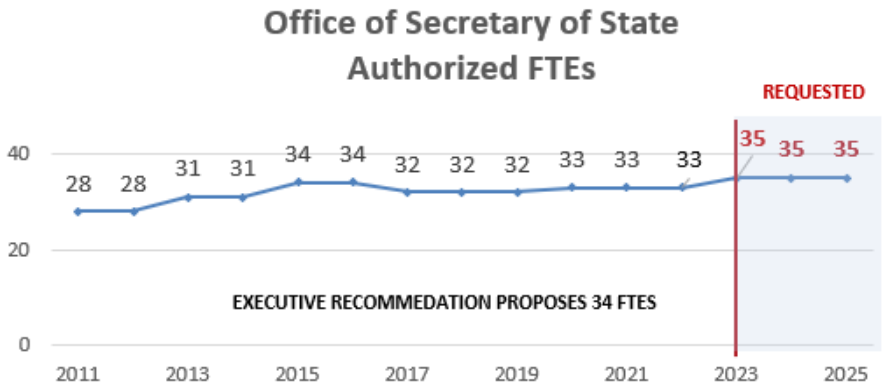
The Governor's recommendation has $4.835 in salaries, operating, and election reform coming from the special – general services fund in the 2023-24 biennium; and an additional $1.5 one-time funding from the SIIF fund to total $6.89 in special funds. Estimated receipts to be retained by the agency from the special - general services fund in 2023-25 is approximately $2 million. This gap isn't sustainable for the agency to meet critical technology infrastructure needs.

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. Information about federal funds is included in the Federal Funds section later in this testimony.

PUBLIC PRINTING - Under state law, the agency is responsible for the distribution of publications known as "public printing" and a major portion of the appropriation is directly related to the cost of printing the North Dakota Century Code, Session Laws, and the North Dakota Administrative Code. The remaining portion of the appropriation is used by the agency to cover costs related to programming database records, shipping, mailing, supplies, etc. Although the appropriation to cover the cost of publishing and distribution is included in the agency's budget, it 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. Estimated costs for the printing of these items in the coming biennium is $271,335.

STAFFING

The number of positions authorized has slightly increased over the past 10 years. As of January 2023, we have 4 unfilled positions that are in the hiring process. Appropriate staffing to create reasonable turnaround time for filings, as well as election administration and training is key to agency success. The chart at right shows a long-term history of the staffing level for the Office of Secretary of State.



Proposed Shift in FTE Funding - The agency currently has authorization for 4 FTEs that receive no general fund support. Due to the critical nature of these positions, we are seeking more appropriate salary administration support. Salary dollars for these FTEs equal $890,610, which are currently supplemented by special – general services fund ($560,000 = 2 FTEs) and federal funds ($330,610 = 2 FTEs).

Funds would be redirected as follows:

- Special – general services fund would be directed towards supporting IT/technology expenses;
- Federal funding currently used to support staffing would be redirected to support voter education and materials across the state.

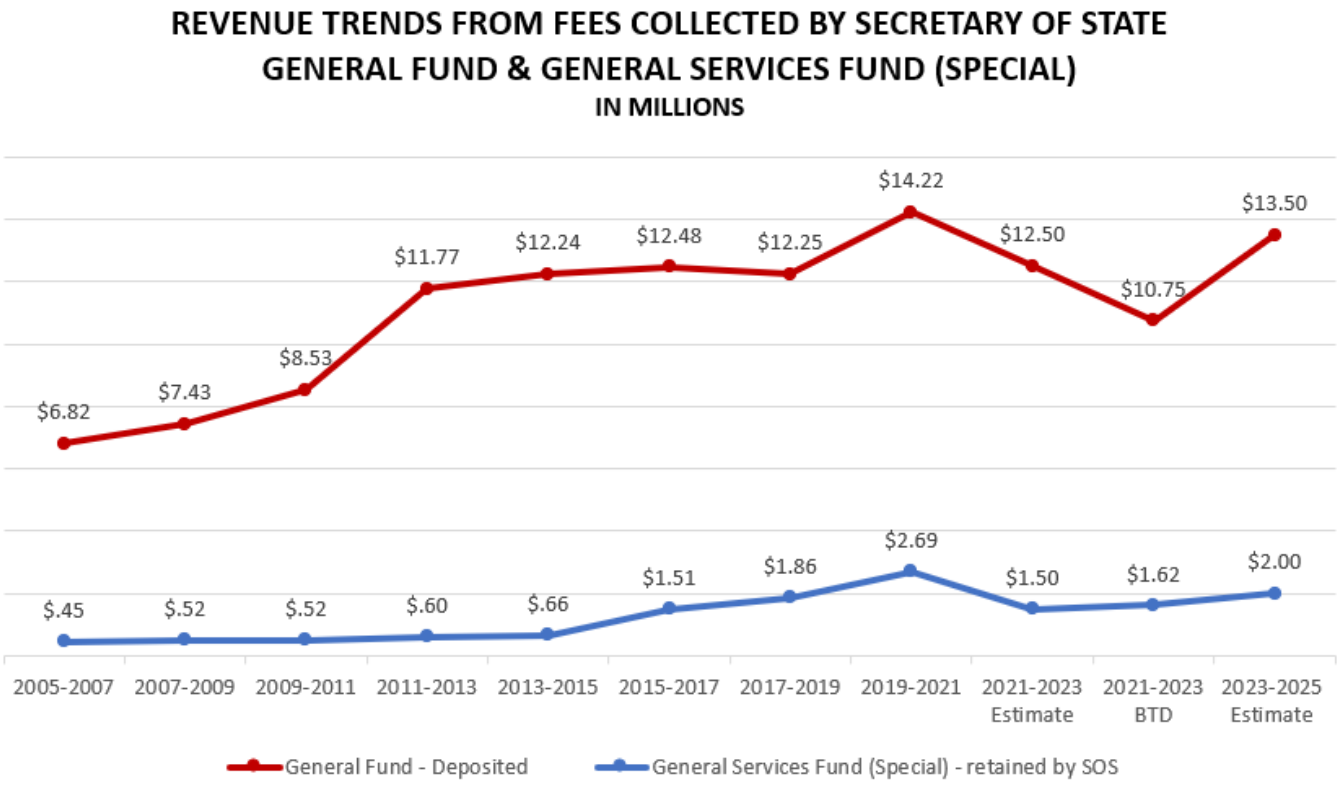
New FTE Request - The agency is also requesting support for 2 new FTEs. This includes 1 FTE in information management to assist in implementing new campaign finance technology; 1 FTE in elections to continue efforts to standardize voter experience in North Dakota. Total cost of these 2 FTEs is $425,000.

Total FTE Fiscal Impact – Total salary/staffing support funding requested is $1,315,610 ($890,610 + $425,000). The agency is requesting support for these positions either through general fund support or greater authority to retain funds in our special – general services fund line. We propose that $200,000 of match dollars needed to secure 2023 Federal HAVA funding of $1 M be a portion of this salary ask as noted later in this testimony.

Revenues – General Fund & General Service Fund (Special Fund)

2021-23 Biennium

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.



2023-25 Biennium – Listing of Requests Compared to Executive 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.

Staffing Repurpose/Reclass - As mentioned earlier, the agency 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. 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.

We are requesting support for $300,000 to adequately address these issues. The Governor's recommendation supports $100,000, and the OMB budget includes $75,000 for the Secretary of State in the proposed $90 million equity package.

The agency is also seeking $1,315,610 in general fund support for 4 FTEs receiving no general fund support, and two new FTEs to support technology enhancements and election reform. An explanation of this request is provided above in the Staffing portion of this testimony on page 8.

Technology Systems – Support & Customization - The Secretary of State is seeking support for technology enhancements to continue modernization work across the agency. A quick 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 in the last biennium were $1.5 M, 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 elections' 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.

We are requesting support for $3 M (general fund), including a 1 new FTE including in our staffing ask to grow critical agency system knowledge to help continue digital system modernization efforts. The Governor's recommendation supports $1.83 M but did not extend dollars or support for an FTE.

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 administration of elections is a year-round job for the state and 53 county auditors, who also oversee many responsibilities in addition to elections. Smaller population counties also are unable to employ enough staff to properly handle the required workload of elections. We are seeking the ability to provide additional support to counties to ensure the administration of elections continues with the integrity that North Dakotans expect and to reduce the chance of burnout of county election officials. We had originally requested 3 additional FTEs supported by federal Help America Vote Act dollars. This administration believes HAVA dollars should support the creation of materials, training, and voter education, and is instead requesting general fund support for 2 existing FTEs currently paid for with federal dollars; and for the additional 1 FTE included in the Governor's recommendation supported by federal funds. These are included in our earlier staffing request on page 8.

The Governor's recommendation supports $213,608 which supports 1 FTE through federal funding.

Other Funding

- **Public Printing -** Estimated costs for the public printing items in the coming biennium is $271,335 based on the estimate provided by Legislative Council and supported by the Governor's recommendation. This increase of $13,404 covers the increase in operating costs for printing and distribution.
- **OMB Rent Model -** OMB Rent Model is $201,331 for the square footage occupied for the Office of Secretary of State in the Capitol and Judicial Wing.

Federal Funding Changes

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.

Use of general fund dollars to support these FTEs would meet match requirements for 2023 HAVA funds as proposed in the staffing portion of this testimony on page 8.

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

	Federal Advance	Fed Exp To 09/30/2022	State Match	State Exp to 09/30/2022
2020 HAVA	$ 3,000,000	$ -	$ 600,000	$ 600,000
2022 HAVA	$ 1,000,000	$ -	$ 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
  - Staffing - $330,000
  - Supplies/Support - $50,000
- 2025-27 Biennium - $2 million (estimated)
  - Elections Software/Equipment - $1.65
  - Staffing - $330,000
  - Supplies/Support - $50,000

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 - $1,500,000 of one-time funds are being requested from general fund and included in Executive Recommendation from Strategic Investment Fund (SIIF) for the Replacing Campaign Finance System and contracted services for IT System Enhancement.

Amendment to SB2002

The following proposed amendment would grant authority for line-item transfers in our appropriation bill to enhance the flexibility and our ability to leverage the entirety of our budget to meet our needs

1. Proposed New Section for SB2002:

   SECTION 3. LINE ITEM TRANSFERS – 2023-25 BIENNIUM. Notwithstanding section 54-16-04, the director of the office of management and budget shall transfer appropriation authority among the line items in section 1 subdivision 1 of this Act as requested by the Secretary of State during the biennium beginning July 1, 2023 and ending June 30, 2025. The Secretary of State shall notify the legislative council of any transfers made pursuant to this section.