

COLORADO GENERAL ASSEMBLY

JOINT BUDGET COMMITTEE



FY 2007-08 SUPPLEMENTAL: DEPARTMENT OF STATE

PRIORITIZED AND NON-PRIORITIZED REQUESTS

JBC Working Document - Subject to Change

Staff Recommendation Does Not Represent Committee Decision

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**DEPARTMENT OF STATE
FY 2007-08 SUPPLEMENTAL RECOMMENDATION
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	FY 2006-07 Actual	FY 2007-08 Appropriation	Fiscal Year 2007-08 Supplemental		
			Requested Change	Recommended Change	New Total with Recommendation
Department of State					
Secretary of State- Mike Coffman					
Supplemental #1 - Address Confidentiality Program					
<i>(1)Administration</i>					
Personal Services	0	70,121	0	(12,000)	58,121
FTE	<u>0.0</u>	<u>1.5</u>	<u>0.0</u>	<u>(0.5)</u>	<u>1.0</u>
General Fund	0	0	42,257	30,257	30,257
Cash Funds	0	70,121	(42,257)	(42,257)	27,864
Operating Expenses	<u>0</u>	<u>15,668</u>	<u>0</u>	<u>0</u>	<u>15,668</u>
General Fund	0	0	9,616	4,668	4,668
Cash Funds	0	15,668	(9,616)	(4,668)	11,000
Leased Space	<u>0</u>	<u>24,000</u>	<u>0</u>	<u>0</u>	<u>24,000</u>
General Fund	0	0	14,000	7,808	7,808
Cash Funds	0	24,000	(14,000)	(7,808)	16,192
Total for Supplemental #1	0	109,789	0	(12,000)	97,789
FTE	<u>0.0</u>	<u>1.5</u>	<u>0.0</u>	<u>(0.5)</u>	<u>1.0</u>
General Fund	0	0	65,873	42,733	42,733
Cash Funds	0	109,789	(65,873)	(54,733)	55,056

	FY 2006-07 Actual	FY 2007-08 Appropriation	Fiscal Year 2007-08 Supplemental		
			Requested Change	Recommended Change	New Total with Recommendation
Totals Excluding Pending Items					
Department of State					
TOTALS for ALL Departmental line items	36,562,510	21,539,034	0	(12,000)	21,527,034
FTE	<u>124.5</u>	<u>119.5</u>	<u>0.0</u>	<u>(0.5)</u>	<u>119.0</u>
General Fund	0	0	65,873	42,733	42,733
Cash Funds	17,801,810	17,557,160	(65,873)	(54,733)	17,502,427
Cash Funds Exempt	18,628,609	3,881,874	0	0	3,881,874
Federal Funds	132,091	100,000	0	0	100,000
Statewide Common Policy Supplementals					
(see narrative for more detail)	<u>N.A.</u>	<u>N.A.</u>	<u>(1,205,711)</u>	<u>Pending</u>	<u>Pending</u>
Cash Funds			(1,205,711)		
Totals Including Pending Items in Request					
Department of State					
TOTALS for ALL Departmental line items	36,562,510	21,539,034	(1,205,711)	(12,000)	21,527,034
FTE	<u>124.5</u>	<u>119.5</u>	<u>0.0</u>	<u>(0.5)</u>	<u>119.0</u>
General Fund	0	0	65,873	42,733	42,733
Cash Funds	17,801,810	17,557,160	(1,271,584)	(54,733)	17,502,427
Cash Funds Exempt	18,628,609	3,881,874	0	0	3,881,874
Federal Funds	132,091	100,000	0	0	100,000

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Supplemental #1- Address Confidentiality Program

	Supplemental Request	JBC Staff Recommendation
TOTAL	\$ 0	\$ (12,000)
FTE	0.0	(0.5) ¹
General Fund	65,873	42,732
Cash Fund	(65,783)	(12,000)
Cash Funds Exempt	0	0
Federal Funds	0	0

Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?

[An emergency or act of God / a technical error in the appropriation / new data / an unforeseen contingency] [YES]

New data reflects that during the first half of FY 07-08, the amount revenue generated by the Address Confidentiality Surcharge has been much less than what was anticipated.

Department Request

The Department requested \$65,873 General Fund for the Address Confidentiality Program (ACP). The program's primary funding source has not generated the revenue that was forecasted in the fiscal note.

Staff Analysis

Background: The Address Confidentiality Program was created by HB 07-1350 (primary sponsors: Speaker Romanoff and Representative King) and is administered by the Department of State (Section 24-21-204, C.R.S.). The ACP keeps confidential the address of a relocated victim of domestic violence, stalking, sexual offense, or similar crime. The ACP receives mail at a substitute address and then forwards it to the participant.

Supplemental Request Criteria: The legislation created a \$28 surcharge, levied on offenders convicted of stalking or domestic violence, to be the ACP's primary source of funding (Section 24-21-214, C.R.S.). The fiscal note projected that this surcharge would generate \$125,267 in FY 2007-08. Five percent of the surcharge revenue is retained by the Clerk of the Court for administrative costs.² The projected ACP portion

¹ The recommendation for the 0.5FTE reduction applies to FY 2007-08 only.

² The five percent transfer is pursuant to Section 24-21-214 (3) (a), C.R.S. The transfer is deposited in the Judicial Stabilization Cash Fund, which was created in Section 13-32-101 (1.5), C.R.S.

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of the revenue was to be \$119,004 in FY 2007-08, and the Department was appropriated \$109,789 and 1.5 FTE for the ACP in FY 2007-08. Between July and November, 2007, the surcharge has only generated \$18,166, which is \$31,419 less than what was predicted in the fiscal note (see Table #1 below). Staff believes **the request meets supplemental criteria because new data is available.**

Table 1: Address Confidentiality Surcharge 2007 Revenue		
Month	Actual Revenue	Anticipated Revenue³
July	\$1,225.5	\$9,917.0
August	\$3,035.3	\$9,917.0
September	\$3,480.8	\$9,917.0
October	\$4,780.4	\$9,917.0
November	\$5,644.4	\$9,917.0
Total	\$18,166.3	\$49,585.0

Revenue Concerns: Staff spoke with the Judicial Department about the discrepancy between the projected versus actual cash fund revenue and whether the surcharge could fully support the program in the future. According to the State Court Administrator's Office, it is impossible to reliably forecast how much a new surcharge will generate because there is no historical data on which to base assumptions. Multiple factors affect how the surcharge is applied and collected such as sentencing guidelines, the surcharge's priority relative to other fines, and the ability of the court to collect the money. Also, pursuant to Section 24-21-214 (5), C.R.S., the court may waive the fee if the person is indigent or financially unable to pay.

There is an initial revenue delay amongst many cash funds because of the intervals between assessing a fee, collecting it, and crediting it to the correct fund. According to staff at Judicial, this is the first time they've experienced such a program being implemented within the first 45 days and assuming its full expenditures so quickly. Although the fiscal note does not mention the initial slow period or the uncertainty about the revenue projections, Judicial states that neither the Department nor the ACP inquired whether there would be sufficient revenues to immediately support the program.

Staff Concerns: Staff emphasizes that it is evident from a review of the program's activities that ACP staff are thoughtfully employing best-practices to build a successful program in Colorado. The activities all contribute to improving the quality and scope of the program. However, staff is concerned that the program **spends funds on activities and projects that are not required by statute, seemingly without consideration for any fiscal constraints.**

³Anticipated revenue according to the Department. The Department's assumptions divided the expected FY '08 revenue, as forecast in the fiscal note, evenly across each month. The Department did not consult with Judicial to make this assumption.

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- Pursuant to Section 24-21-205 (1), C.R.S., the ACP **will not enroll its first participant until July 1, 2008.**
- During FY 07-08 the program will spend \$24,000 on leased space for one FTE.**
- During FY 07-08 the program will spend **over \$7,000 on travel and training for one FTE.**
- According to the Department's research, Washington's ACP has a cost-per-participant of approximately \$85. During FY 08-09, if the program is appropriated the amount in the fiscal note, Colorado's ACP will cost **over \$450 per participant, much more than ACP programs in other states.**⁴
- Staff was unable to obtain a budget of the program's specific expenditures for the first half of the fiscal year. After six months of operation, the ACP could not provide staff with a program-produced budget for the remainder of the fiscal year.
- If the Legislature approves General Fund for FY 2007-08, it is likely that the program will require General Fund in FY 2008-09, as well. Staff also believes that by backfilling the ACP with General Fund, the program will not have to strategically consider how to best manage its resources.**

Requested Supplemental Funding Source: Pursuant to Section 24-21-104, C.R.S., programs in the Department of State are funded with the Department of State Cash Fund. However, staff believes that the Department may not use its Cash Fund to subsidize the ACP because it is not a direct or indirect cost of the Department itself (see Section 24-21-104 (3) (b), C.R.S.). The ACP is not a Department-initiated program, rather the General Assembly enacted legislation that located the program there. Statute prohibits the transfer of funds from the Department of State Cash Fund to the ACP Surcharge Fund because pursuant to Section 24-21-104 (3) (b), C.R.S., "*All moneys credited to the Department of State Cash Fund shall be used as provided in this section and shall not be deposited in or transferred to the General Fund of this state or any other fund.*"

This legislation also created the Address Confidentiality Surcharge Fund, "...for the purpose of paying the costs incurred by the Secretary of State in the administration of the Address Confidentiality Program" (Section 24-21-214 (4) (a), C.R.S.). The General Assembly has identified a secondary source of funding for the ACP, because "if the amount of money in the Address Confidentiality Program Surcharge Fund is insufficient to cover the costs incurred by the Secretary of State in the administration of the Address Confidentiality Program, the General Assembly *may appropriate additional General Fund moneys to cover such costs after exhausting all moneys in the Address Confidentiality Program Surcharge Fund*" (see Sections

⁴ Colorado anticipates 300 participants during FY 2008-09, its first year. According to the National Network on Domestic Violence, as of April, 2007, at least 24 states have an ACP program. If Colorado enrolls 300 participants its first year, it would have the fifth largest participation rate in the country- behind WA (in existence for 17 years), CA (9 years), Nevada (11 years), and North Carolina, which are all well-established programs. Staff believes this is an ambitious projection and therefore this is a conservative cost-per-participant estimate.

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24-21-214(4)(a) and 24-21-214(4)(c), C.R.S.). **Staff recommends that the Committee use General Fund as the supplemental funding source.**

Staff Recommendation

In early January, 2008, the Justice Department told staff that the ACP surcharge will generate between \$80,000 - \$100,000 in FY 2007-08. Given the current revenue shortage, in order to generate \$100,000 the monthly revenue amount would need to immediately increase from \$5,640 in November to an average of \$11,690 beginning in December. Staff believes it is unlikely that this will occur. It is more likely that the average monthly revenue will increase to \$6,700 for a total of \$65,066 during FY 2007-08. Given the numerous factors that can negatively affect the surcharge revenue, staff believes the cash fund should aim for an 8% reserve (one month's revenue, or \$10,010) by FY 2008-09.

Staff recommends that the FY 2007-08 appropriation be reduced by 0.5 FTE and the corresponding \$12,000 cash fund. Staff recommends that the new FY 2007-08 appropriation amount be \$42,733 General Fund and \$55,056 cash fund for a total appropriation of \$97,789 and 1.0 FTE.

The program's fiscal note estimates a FY 2008-09 appropriation of \$137,120 cash fund and 2.0 FTE. If the Committee funds the ACP with General Fund for FY 2007-08, and the program continues with its current budget, there is a possibility that it will require General Fund to supplement the cash fund in FY 2008-09. Staff will reassess the FY 2008-09 appropriation at figure setting.

The Department has agreed to provide staff with an informal program budget for the remainder of FY 2007-08, as well as quarterly budget reports for the ACP beginning April 21, 2008. For FY 2008-09 figure setting, if the program is funded, staff plans to recommend a footnote requesting quarterly budget reports for FY 2008-09.

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Statewide Common Policy Supplemental Requests

These requests are not prioritized and are not analyzed in this packet. These items will be acted on separately by the JBC when it makes a decision regarding common policies.

Statewide Common Policy Supplemental Requests				
	Total	General Fund	Cash Funds	Cash Funds Exempt
1. MNT	(\$1,185,240)	\$0	(\$1,185,240)	\$0
2. GGCC	\$56,310	0	\$56,310	0
3. Worker's Comp	(\$604)	0	(\$604)	0
4. Risk Management	(\$15,645)	0	(\$15,645)	0
5. Administrative Law Judge	(\$60,759)	0	(\$60,759)	0
6. Vehicle Lease Payments	\$227	0	\$227	0
Total Statewide Department Requests	(\$1,205,711)	\$0	(\$1,205,711)	\$0

Staff Recommendation: The staff recommendation for these requests is pending Committee approval of common policy supplementals. Staff asks permission to include the corresponding appropriations in the Department's supplemental bill when the Committee approves this common policy supplemental. If staff believes there is reason to deviate from the common policy, staff will appear before the Committee later to present the relevant analysis.