

MEMORANDUM

TO: Joint Budget Committee
FROM: Alfredo Kemm, JBC Staff (303-866-4549)
SUBJECT: Staff Comeback for Department of State Supplemental Request #1
DATE: January 27, 2014

SUPPLEMENTAL REQUEST, DEPARTMENT PRIORITY #1 IT DIVISION EXPENSES FOR HB-1303

	Request	Recommendation
Total	<u>\$1,166,288</u>	<u>\$0</u>
FTE	0.0	0.0
Cash Funds	1,166,288	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 calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]	YES
JBC staff and the Department agree that this request is the result of data that was not available when the original appropriation was made.	

Department Request: The Department requests an additional \$1,166,288 cash funds from the Federal Elections Assistance Fund for FY 2013-14 for IT Division expenses for information technology-related improvements related to the implementation of H.B. 13-1303.

Staff Recommendation: Staff recommends that the Committee **deny** the request. The Department's request is for cash funds from the Federal Elections Assistance Fund, created in Section 1-1.5-106 (1) (a), C.R.S., which consists of moneys the State has received from the federal government from the Help America Vote Act (HAVA) and is continuously appropriated pursuant to Section 1-1.5-106 (2) (b), C.R.S. Due to the continuous spending authority provided for HAVA funds held in the Federal Elections Assistance Fund, this request is unnecessary.

Request Background: The Department's request generally involves the development of an electronic pollbook and security for the electronic pollbook. An electronic pollbook refers to the system or process of verifying voter eligibility and tracking election activity of registered voters through network-connected, real-time access to a state voter registration list. Based on a recommendation from the information technology subcommittee of the HB13-1303 commission, the Department is proceeding with an internally-developed project to create a secure web-based application for use in local voter service and polling centers (VSPCs). The Department is working with the Office of Information Security in the Governor's Office of Information Technology to identify and put in place more effective controls, systems, and policies for

January 27, 2014

VSPCs. Some of the areas under consideration are implementation of more sophisticated cybersecurity systems (e.g., web application firewalls, advanced persistent threat prevention systems, endpoint malware detection systems), expanded use of the multi-factor authentication system already in use for full-time county elections staff to temporary election workers, and more effective policies and controls governing use and access to state voter registration systems.

Department Responses to Committee Questions: The Department provided the following responses to questions asked at the supplemental request presentation on January 14th.

1. Why was supplemental request #1 not included in the fiscal note for HB13-1303?

Response: Unfortunately, our office was not included in any discussions around this bill before introduction. As you may know, the 126-page, major re-write of elections policy was introduced on April 10, 2013. The bill was in House Appropriations on April 17. The office scrambled to compile a reasonable fiscal note, which was subsequently reduced by legislative staff. In fact, the Secretary testified to the State Affairs Committee that the fiscal note was too low and that our office did not have the resources to fulfill what was in the legislation. Now, almost one year later, most agree that the bill's fiscal note was too low and here we are requesting additional spending authority.

2. Around the time of the recall elections, the Secretary of State was traveling to areas around the state to explain how to do a recall election. Please describe these activities and efforts.

Response: The Secretary is committed to reaching out to all parts of the state and sharing how the Secretary of State's office supports its customers. During meetings with Coloradans, the Secretary answers questions about filing business records, campaign finance reports, initiative petitions and even elections processes. While visiting with a GOP group in Pueblo, someone asked the Secretary about recall elections. According to the local newspaper, Gessler said:

"A recall election is brutal so you need to get all your ducks in a row," he advised.
"You don't want to wait until the clock's started to get organized."

Gessler meant any recall campaign would need to collect the valid signatures of 11,000 registered voters in the 3rd Senate District, get that done within 60 days, and also have a candidate ready to win that same election if Giron was recalled."

He had a frank conversation with those Coloradans about a process his office oversees. In fact, a staffer in the office would have provided similar advice if that person called in. Couching this as coaching a particular group to recall a particular elected official is an unfair categorization. The Denver Post editorial board agreed saying in its piece, "It appears, however, that Gessler was not advocating Giron's recall but simply explaining the process in response to questions."
