STATE BOARD OF ELECTIONS
P.O. BOX 6486, ANNAPOLIS, MD 21401-0486   PHONE (410) 269-2840

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Linda H. Lamone
Administrator

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Memorandum

To: House Appropriations Committee
Subcommittee on Public Safety and Administration
February 1, 2017

Senate Budget and Taxation Committee
Health and Human Services Subcommittee
February 2, 2017

From: Linda H. Lamone, State Administrator of Elections

Subject: Response to Department of Legislative Services' FY 2018 Budget Analysis

Thank you for the opportunity to respond to the Department of Legislative Services' (DLS) analysis of the State Board of Elections' (SBE) Fiscal Year 2018 budget. Before responding to specific questions raised in the analysis, I would like to give a brief overview of the 2016 General Election.

Highlights from the 2016 General Election
Overall, voter turnout was lower than expected and was less than the last four presidential general elections. There were 3,900,900 eligible voters, and 2,807,326 voters or 72% participated in the election. There was, however, an early voting record turnout – 876,843 voters or 31% of all voters voted early – at the 69 early voting centers. 1,674,473 voters voted on election day, and about 260,000 voters voted an absentee or provisional ballot. Attached is a table showing voter turnout for the 2016 General Election and a chart showing absentee voting turnout over the years.

The voting equipment performed well. Over 2,500 ballot scanners, almost 1,900 accessible ballot marking devices, and 6,300 electronic pollbooks were used during early voting and on election day. Only 15 ballots scanners, twelve accessible ballot marking devices, and 75 electronic pollbooks were replaced during voting hours. High-speed scanners were used in eight counties[1] for counting absentee and provisional ballots.

The 2016 elections were the first time Maryland offered voters the ability to register to vote and update an address during early voting. During the eight days of early voting, 7,884 voters registered to vote, and 8,005 voters changed their address and voted the ballot for the new address. The electronic pollbooks facilitated the process and worked well.

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[1] The counties using high-speed scanners were Baltimore City and Anne Arundel, Baltimore, Frederick, Harford, Howard, Montgomery, & Prince George's Counties.

FAX (410) 974- 2019
MD Relay Service (800) 735-2258

Toll Free Phone Number (800) 222-8683
http://www.elections.maryland.gov

151 West Street Suite 200
Annapolis, Maryland 21401

In response to the reports of lines on election day, we immediately began collecting data on the 59 precincts or 3% of precincts with reports of lines. We collected election day turnout, how many scanners were deployed, whether the precinct opened on time, whether the scanner was replaced or had ballot jams, and the average time to check-in a voter.

Based on the data we initially received, lines were only reported in counties with two page ballots. Because the new ballot scanners capture an image of each voted ballot, the time to scan a ballot is longer than it was with the previously used optical scanners (when the scanner was just tallying marked ovals).   A single scanner may have been the cause of lines in some precincts, but it was not the cause of the lines in all precincts.   We have identified precincts where the time to check in a voter was significantly longer than other precincts.

Since the initial data analysis did not identify the cause of the lines in each precinct, we are collecting additional data. This data includes the average time to scan a two-page, 17 inch ballot, the number of ballots rejected because of an overvoted contest or other voter error, the average check-in time per electronic pollbook, and contacting election judges in these precincts to gather more information. We will continue to review data from each precinct with reports of lines, try to identify the cause, and with the local boards, develop a plan to respond. Depending on funding, we can obtain more equipment if needed.

Maryland's post-election audit and verification process is extensive and includes reviewing various tasks and election data. The local boards provide data on the audits they perform, and SBE uses other data to audit the election[2]. This election, the post-election audit included a re-tabulation of **all** voted ballots to verify the accuracy of the voting system's results. SBE used an audit program from The Clear Ballot Group to retabulate all of the ballot images and compare the results of this tabulation against the results from the voting system. This audit confirmed that the voting system accurately counted ballots.

There was a recount for a seat on the Hagerstown City Council. In this "vote for five" contest, the difference between the candidates with the fifth and sixth highest number of votes was 10 votes. The Washington County Board of Elections had ten recount teams of four individuals to recount the votes for the two candidates for 14,000 ballots. At the end of the 2nd full day, the requesting candidate conceded and the final vote difference was seven votes. The cost to conduct the record of one contest on 14,000 ballots was $57,000.

Recommended Action (p. 13)
Under Election Law Article, §2-104, SBE is required to hold a statewide meeting every "non-election year." The purpose of this meeting is to instruct the members of the local boards of elections, election directors, counsel to the local boards of elections, and other local board employees of their duties in the conduct of elections. DLS recommends reducing the general fund allowance for this conference.

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[2] For example, SBE compares the number of ballots cast against the number of voters who checked in to vote and identify locations where the numbers do not match. For those precincts, the local boards investigate and resolve variances. Also, the local boards of elections review absentee and provisional voting records to verify that the ballot was correctly issued and that canvassing decision was correct

SBE **disagrees** with DLS' recommendation to reduce the general funds allowance for in-state conference. While the local boards of election pay some of the costs associated with this meeting, general funds are also used to cover the costs of SBE personnel to attend the meeting and other meeting costs. Requiring the local boards of elections to pay the full cost of this meeting places an unfair hardship on the local boards of elections. For these reasons, SBE disagrees with DLS' recommendation.

Issues Raised in the Department of Legislative Services' Analysis

1. ***SBE should comment on whether there is any correlation between issues at polling places and jurisdictions with high ratios of active voters to ePollbooks or ballot scanners.*** (p. 7)
   SBE is evaluating whether there is any correlation between the issues at voting locations and the ratio of voters to specific voting equipment. Based on information from the 2016 General Election, it appears that the ratio of voters to each ballot scanner may need to be adjusted in jurisdictions with a two-page ballot.

   There is also data to suggest that the performance of the voting equipment - not the ratio of voters to equipment - may be the cause of voting issues. For example, rebooting an electronic pollbook delays the check-in process for voters. Similarly, a paper jam in a ballot scanner delays voters from scanning their voted ballot. One precinct in Baltimore County reported twelve ballot jams on election day.

2. ***SBE should comment on the audit finding and how it will resolve the finding.*** (p. 10)
   SBE is reconciling federal and special fund balances to ensure that there is revenue to cover incurred expenditures. SBE is working with General Accounting Division to reconcile interest earned after 2011 on federal grant funds. This reconciliation process will be complete in fiscal year 2017.

3. ***SBE should provide an explanation for the increase in estimated costs for the AEMS Modernization major information technology project.*** (p. 13)
   The cost difference between the Information Technology Project Requests (ITPR) submitted for FY17 and FY18 is the result of:
   - Different time frames. The ITPR for FY17 accounted for the costs for three fiscal years (FY17 - FY19), whereas the ITPR for FY18 includes costs for five fiscal years (FY18 - FY21).
   - More updated estimates. The ITPR for FY18 reflects a more realistic and current estimate for the project. As required by the Department of Information Technology, this project must follow the Agile project management and technical development approach. Once an individual with Agile experience joined the project, a more realistic cost estimate was developed.

4. ***SBE should provide an updated timeline for the AEMS Modernization major IT project.*** (p. 13)
   In September 2016, SBE hired an individual with Agile experience to coordinate this project. Three weeks after he joined the team, he resigned. Because his departure was one month before the 2016 General Election, SBE personnel were not able to devote

resources to identify and hire a new resource. Since the election, however, SBE has decided to use an existing contract to maintain the legacy AEMS system through the 2018 elections and develop a new system that can run parallel to the legacy system for the 2018 elections. Once this contract is in place, a project plan – with a revised timeline – will be the first deliverable.

5. ***SBE should comment on whether any issues in the voting system were identified that can post a risk in the upcoming gubernatorial primary election and how SBE will address them.*** (page 15)
   - With a paper-based system, election officials expect ballot jams. On election day, there were 2,060 jams out of 2.7 million pieces of paper (0.076%). Most jams were cleared quickly and voting continued. If the jam could not be immediately resolved, voters can put voted ballots in each unit's emergency bin for later counting.
   - In the eight largest jurisdictions, high speed scanners are used to count absentee and provisional ballots. Preparing the ballots for these scanners is very important, as absentee ballots have been folded for up to 6 weeks. Before scanning, these ballots must be "reverse folded" for the ballots to scan. ES&S, the voting system vendor, has committed to provide extensive training on best practices for preparing folded ballots for scanning.
   - Certain marks in the write-in block were considered potential votes by the scanners. This was caused by a ballot fold or a scratch or mark on the camera lens and resulted in a higher than expected number of overvotes in the contest with the fold through the write-in block. Three counties – Anne Arundel, Garrett, and Prince George's Counties – rescanned some or all of their absentee and provisional ballots and issued revised election results. Two counties – Baltimore and Harford Counties – re-reviewed the write-in export spreadsheet and tabulated votes that were originally treated as overvotes. ES&S is developing a technical solution to prevent any mark in the write-in block from being treated as a vote.
   - During the post-election ballot tabulation audit, we identified 41 ballot images in Baltimore City with two ballots, instead of one.   When reviewing the ballot images, we could see the top ¼ inch of the "bottom" ballot. To correct this issue, the Baltimore City Board of Elections rescanned all of their absentee and provisional ballots and issued revised election results.   ES&S is committed to reviewing all settings on the scanners, making adjustments where appropriate, and verify with SBE that this issue will not recur.
   - SBE is currently surveying the local boards of elections to identify what worked and what needs to be improved for future elections. It is expected that any additional potential issues with the voting system will be identified as the result of this survey, and SBE will follow up as appropriate with ES&S.
   - The State's electronic pollbooks, the tablet devices used by election judges to check -in voters, have been used since 2006 and are aging. Approximately 1% of the electronic pollbooks deployed on election day needed to be replaced. Prior to the 2018 elections, SBE will pilot a new electronic pollbook (different hardware with the existing software) and determine whether to implement a new electronic pollbook statewide for the 2020 elections.