Agency Budget Comparison

The following table summarizes the total executive budget for the agency by year, type of expenditure, and source of funding.

Agency Budget Comparison Budget Item	Base Fiscal 2010	Approp. Fiscal 2011	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 10-11	Biennium Fiscal 12-13	Biennium Change	Biennium % Change
Personal Services	0	0	0	0	0	0	0	n/a
Operating Expenses	0	0	0	0	0	0	0	n/a
Equipment & Intangible Assets	0	0	0	0	0	0	0	n/a
Grants	0	0	550,000	0	0	550,000	550,000	n/a
Total Costs	**$0**	**$0**	**$550,000**	**$0**	**$0**	**$550,000**	**$550,000**	**n/a**
Federal Special	0	0	550,000	0	0	550,000	550,000	n/a
Total Funds	**$0**	**$0**	**$550,000**	**$0**	**$0**	**$550,000**	**$550,000**	**n/a**

Agency Description

Agency Mission: It is the mission of the Secretary of State to improve services to Montana's voters, business community, and governmental agencies through open communications, effective use of technology, and transparent accountability.

The Secretary of State's Office:

- Interprets state election laws and oversees statewide, federal, legislative, Public Service Commission, district court judge, and ballot issue elections
- Maintains the official records of the executive branch and the acts of the legislature
- Reviews, maintains, and distributes public-interest records of businesses and nonprofit organizations
- Files administrative rules adopted by state departments, boards, and agencies
- Attests to the Governor's signature on executive orders, proclamations, resolutions, extradition papers, and appointments
- Preserves the state seal
- Files and maintains records of secured financial transactions, such as liens
- Serves on the state Board of Land Commissioners and the Board of Examiners
- Commissions notaries public

The Secretary of State's Office consists of one program, the Business and Government Services Program, which provides all the functions of the office.

Agency Highlights

Secretary of State's Office Major Budget Highlights
♦ No base funding exists for the office as the 2009 Legislature designated the $305,000 federal Help America Vote Act of 2002 (HAVA) funds appropriated for the 2011 biennium as one time only ♦ HB 2 funding consists entirely of a request to fund grants to counties with federal HAVA funds, which would add $550,000 million for the 2013 biennium ♦ The remainder of the office's funding is derived from non-budgeted proprietary funds
Legislative Action Issues
♦ Proprietary Rate Discussion • Because the proprietary funds are enterprise funds, the legislature does not appropriate or approve rates for the proprietary funding of the office

Agency Discussion

Goals and Objectives:

State law requires agency and program goals and objectives to be specific and quantifiable to enable the legislature to establish appropriations policy. As part of its appropriations deliberations the legislature may wish to review the following:

- Goals, objectives and year-to-date outcomes from the 2011 biennium.
- Critical agency goals, objectives, and anticipated outcomes and their correlation to the executive's budget request for the 2013 biennium.

2011 Biennium Goals

No goals for the Secretary of State's Office were monitored during the 2011 interim.

2013 Biennium Goals

The Legislative Finance Committee did not identify goals for recommendation to the 2011 Legislature.

Agency Personal Services Narrative

No personal services are associated with the office's HB 2 funding.

Agency Overview

The Secretary of State's Office budget request shows a growth of $550,000 million for the 2013 biennium compared to no base in the 2011 biennium. The funding for the 2013 biennium is federal funds to continue efforts associated with the Help America Vote Act of 2002 that has been on-going since the 2005 Legislature first appropriated funding for this purpose. No base exists because the legislature has designated previous funding as one time only. No FTE are associated with the HAVA funding.

All remaining functions of the office are funded with enterprise type proprietary funds, which are financed through fees and charges paid by public and private entities that by law either purchase services from the department or are required

to submit documents or obtain registrations with the office. Unlike internal service type proprietary programs, the rates for the fees and charges are not approved by the legislature, but are instead established in statute or administrative rule. For further discussion of the proprietary program see the "Proprietary Rates" section.

5% Reduction Plan

The Secretary of State's Office was not required to submit a 5% reduction plan as the office has no base budget in the general appropriations act.

Funding

The operations of the Secretary of State's Office are primarily funded with proprietary funds derived from fees for services, document sales, and other fees established in statute. In recent years, the federal Help America Vote Act of 2002 (HAVA) has provided federal special revenue for election reform initiatives. Since expenditure of HAVA interest funds in the base were designated as one time only, these expenditures were removed from the base and no base exists. Interest accrued on deposit of HAVA funds remains unspent and is included for the 2013 biennium as part of HB 2. Only HAVA funds are included in HB 2.

The remainder of the office is funded with enterprise type proprietary funds. For the 2013 biennium, proprietary funds account for $10.7 million of nearly $11.2 million total funds included in the executive budget to finance the office. The proprietary fund and supported operations are discussed below in the "Proprietary Rates" section.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category

	General Fund				Total Funds			
Budget Item	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget	Budget Fiscal 2012	Budget Fiscal 2013	Biennium Fiscal 12-13	Percent of Budget
Base Budget	0	0	0	0.00%	0	0	0	0.00%
Statewide PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
Other PL Adjustments	0	0	0	0.00%	0	0	0	0.00%
New Proposals	0	0	0	0.00%	550,000	0	550,000	100.00%
Total Budget	**$0**	**$0**	**$0**		**$550,000**	**$0**	**$550,000**	

New Proposals

The "New Proposals" table summarizes all new proposals requested by the Governor. Descriptions and LFD discussion of each new proposal are included in the individual program narratives.

New Proposals

	Fiscal 2012					Fiscal 2013				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 2 - HAVA (Biennial)										
01	0.00	0	0	550,000	550,000	0.00	0	0	0	0
Total	**0.00**	**$0**	**$0**	**$550,000**	**$550,000**	**0.00**	**$0**	**$0**	**$0**	**$0**

DP 2 - HAVA (Biennial) - For the 2013 biennium $550,000 of federal special revenue is requested to provide grants to counties for continued voting equipment improvements. Revenue is from interest earned on deposit of Help America Vote Act of 2002 (HAVA) federal grant funds and additional grant funding received subsequently. The executive recommends designating funding as biennial and one time only.

LFD COMMENT

Help America Vote Act of 2002 – Purpose and Status

The Help America Vote Act of 2002 (HAVA) was passed by Congress in the wake of the controversial 2000 presidential election in Florida. The act required states to improve their federal elections processes and federal funds have been provided to states to do so. To-date, Montana has received nearly $16 million in grant funds and is eligible to receive additional payments if appropriated by Congress. Federal funds have been used in Montana to:

- Purchase voting equipment that allows voters with disabilities to vote independently and privately
- Improve accessibility to county polling places
- Replace all punch-card voting systems
- Create and maintain a statewide database of all registered voters that can be updated by local election officials on an ongoing basis
- Educate voters, poll workers, and election officials about the requirements of the act
- Generally improve the administration of federal elections

HAVA administration and compliance requirements will continue. However federal funds are not as certain. The President's FY 2011 budget contains no funding for state election costs. Montana's HAVA funding is expected to last through the 2012 national election unless unknown costs cause it to be depleted sooner. Once federal funds are no longer available, the Secretary of State enterprise fund will fund the nearly $1.4 million in biennial costs for the statewide voter file and $230,000 biennial costs of the election staff and other election costs.

Proprietary Rates

Secretary of State (Business and Government Services – 06053)

Proposed Budget

The 2013 Biennium Report on Internal Service and Enterprise Funds for fund 06053 shows the financial information for the fund from FY 2010 through FY 2013. The report is provided as submitted by the executive but the LFD has edited and reconfigured the figure for clarity.

2013 Biennium Report on Internal Service and Enterprise Funds

Fund	Fund Name	Agency #	Agency Name	Program Name
06053	Sec of St Business Service:	32010	Secretary of State	Business & Government Services

	Actual FY 2010	Budgeted FY 2011	Budgeted FY 2012	Budgeted FY 2013
Operating Revenues:				
Net Fee Revenue	$4,642,299	$4,844,400	$4,970,500	$5,235,500
Investment Earnings	8,659	12,000	20,000	20,000
Securities Lending Income	0	0	0	0
Premiums	0	0	0	0
Other Operating Revenues	71,415	10,600	75,000	15,000
Total Operating Revenue	$4,722,373	$4,867,000	$5,065,500	$5,270,500
Operating Expenses:				
Personal Services	3,019,176	3,036,144	3,118,510	3,117,579
Other Operating Expenses	1,832,913	2,365,676	2,236,018	2,207,881
SIMS Operating Expenses	212,226	218,717	0	0
Total Operating Expenses	$5,064,315	$5,620,537	$5,354,528	$5,325,460
Operating Income (Loss)	($341,942)	($753,537)	($289,028)	($54,960)
Nonoperating Revenues (Expenses):				
Gain (Loss) Sale of Fixed Assets	0	0	0	0
Federal Indirect Cost Recoveries	0	0	0	0
Other Nonoperating Revenues (Expenses)	0	0	0	0
Net Nonoperating Revenues (Expenses)	$0	$0	$0	$0
Income (Loss) Before Operating Transfers	($341,942)	($753,537)	($289,028)	($54,960)
Contributed Capital	0	0	0	0
Operating Transfers In (Note 13)	0	0	0	0
Operating Transfers Out (Note 13)	0	0	0	0
Change in net assets	($341,942)	($753,537)	($289,028)	($54,960)
Total Net Assets- July 1 - As Restated	2,479,684	2,137,781	2,792,223	2,503,195
Prior Period Adjustments	39	1,407,979	0	0
Cumulative effect of account change	0	0	0	0
Total Net Assets - July 1 - As Restated	2,479,723	3,545,760	2,792,223	2,503,195
Net Assets- June 30	$2,137,781	$2,792,223	$2,503,195	$2,448,235
60 days of expenses	$844,053	$936,756	$892,421	$887,577

LFD ISSUE

Fund Balance

The 2013 Biennium Report on Internal Service and Enterprise Funds for fund 06053 shows and the last several legislative audits confirm that the fund balance for the enterprise fund used to finance the operations of the Secretary of State is high and fees are not commensurate with costs. The legislature may want to discuss plans the office has for addressing fees and operating costs of the office.

Reasonable Reserves

At the end of FY 2010, the fund balance was more than two and a half times a level sufficient to finance 60 days of costs. A 60-day working capital reserve is generally recognized as a reasonable level for internal service funds receiving federal grants. Although this fund is an enterprise fund, it functions the same as an internal service fund and the only difference is in who pays the fees. In this instance fees are paid by the public whereas with an internal service fund only governmental entities pay the fees.

LFD ISSUE CONT.

Legislative Audit Findings

The balance of this fund has been mentioned in the last three legislative audits of the Secretary of State. High fund balance has been noted along with fees that are not commensurate with costs. Under the previous Secretary of State, the purpose for accumulating the balance was stated as being needed to upgrade the computerized management system used by the office. The balance has never been used to finance these costs. Furthermore, the office was successful in obtaining general fund from the 2009 Legislature to finance the first of five planned phases for upgrading the office's management system. The current Secretary of State has stated that the balance of the fund is needed to finance costs for the operation of the office.

Legislative Action

The legislature has no requirements to appropriate the fund or approve fees for the Secretary of State in regard to funding from this enterprise type proprietary fund. If the legislature considers in its review of the fund that the fund balance is not reasonable it has two options:

1. Request that the Secretary of State lower fees to bring fees in line with costs of the office after factoring the excess balance over a reasonable reserve in the rate determination; or
2. Transfer a portion of the fund to the general fund. The legislature could transfer the $1.5 million used to finance the first phase of the Secretary of State's Information Management System (SIMS) it funded with general fund. This action would require legislation to implement.

Program Description

The Secretary of State's Office conducts its daily operations through a single program, the Business and Government Services Program. It provides the following major functions:

- Election administration
- Registration and document filing of Montana businesses
- Publication and distribution of administrative rules
- Records management of public documents generated by state and local governments
- Central services for the Secretary of State's Office

Program Narrative

Expenses

The major base expenses of the office are for:

- Personal services for 54.25 FTE, $3.0 million or 61% of base year expenses
- Operating costs, $1.8 million with roughly 43% of these costs associated with providing electronic government service including:
    - $357,000 for e-government transaction fees
    - $193,500 for information technology consultants and professional services
    - $166,000 for application and server hosting with the Department of Administration

Revenues

Revenues are received from fees charged to: 1) businesses and corporations for corporate filings, registration of assumed business names, and trademarks; 2) state agencies and users of ARM for publishing and distributing the ARM and the MAR, and storage and management of public documents; 3) candidates who file for elections; and 4) Montana citizens who apply to be notaries. Revenues, by source, have been consistent for the past four years and are not projected to deviate from this pattern.

Funding Sources

Except for the HB 2 funding discussed above, the remainder of the office is funded with enterprise funds. The legislature does not appropriate enterprise funds nor does it approve the level of fees and charges in HB 2. Instead, the legislature accepts and identifies any concerns with a report on the enterprise fund that includes retained earnings and contributed capital, projected operations and charges, and projected fund balances. Revenues deposited into the enterprise fund are derived from fees for services, document sales, and other fees established in statute.

Present Law Adjustments

Present law adjustments add $997,000 for the biennium and 1.00 FTE. Statewide present law adjustments dominate the increases, with fixed cost allocations to the office for Department of Administration Information Technology Services Division ($504,000) and statewide indirect costs ($234,000) the two biggest increases.

DP 55002 - Agency FTE – An increase is requested to fund the addition of 1.00 FTE for records management.

LFD COMMENT

Position Added Was a Modified Position

The position associated with this decision package was first added as a modified position in FY 2008 and has continued to be reestablished as a modified position since. The position has been funded through budget authority added by the executive during the interim and has not been considered previously by the legislature.

Proprietary Rates

Funding for the program is with enterprise type proprietary funds. As such, the legislature does not approve rates or appropriate funds for the proprietary portion of the funding for the Secretary of State. The legislature reviews the report for the enterprise fund and notes any concerns with the financial position of the fund. Rates for the Secretary of State's Office are established in administrative rule.