

Agency Proposed Budget

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

Agency Proposed Budget								
Budget Item	Base Budget Fiscal 2006	PL Base Adjustment Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	PL Base Adjustment Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Exec. Budget Fiscal 08-09
FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Personal Services	0	0	0	0	0	0	0	0
Operating Expenses	0	0	0	0	0	0	0	0
Equipment	0	0	0	0	0	0	0	0
Grants	0	0	1,040,000	1,040,000	0	0	0	1,040,000
Total Costs	\$0	\$0	\$1,040,000	\$1,040,000	\$0	\$0	\$0	\$1,040,000
Federal Special	0	0	1,040,000	1,040,000	0	0	0	1,040,000
Total Funds	\$0	\$0	\$1,040,000	\$1,040,000	\$0	\$0	\$0	\$1,040,000

Agency Description

The Office of the Secretary of State:

- Interprets state election laws and oversees 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 Office of the Secretary of State conducts its daily operations through a single program, the Business and Government Services Program. Except for federal funding to support activities under the Help America Vote Act of 2002, the agency operates entirely with proprietary funds derived from fees for service.

Agency Highlights

Office of Secretary of State Major Budget Highlights
<ul style="list-style-type: none"> ◆ Funding to expend interest revenue of Help America Vote Act of 2002 funds would add \$1.0 million federal funds ◆ The remainder of the office’s funding is derived from non-budgeted proprietary funds

Funding

The operations of the Office of the Secretary of State 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) provided federal special revenue for election reform initiatives. Since expenditure of HAVA funds in the base were via budget amendment authority, no base exists for original grant funds. Interest accrued on deposit of HAVA funds remains unspent and is included for the 2009 biennium as part of HB 2. As such, the HB 2 tables show only HAVA funds derived from interest revenues from the grant proceeds.

The primary operations of the Office of Secretary of State are funded from enterprise proprietary funds derived from fees charged for the various services, document sales, and products of the office. Fees of the office are established in

administrative rule or state law.

Because the office is funded with enterprise funds, the legislature does not appropriate funds or approve, in HB 2, the level of fees and charges. 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. The proprietary fund and supported operations are discussed below in the Proprietary Rates section.

Biennium Budget Comparison

The following table compares the executive budget request in the 2009 biennium with the 2007 biennium by type of expenditure and source of funding. The 2009 biennium consists of actual FY 2006 expenditures and FY 2007 appropriations.

Biennium Budget Comparison									
Budget Item	Present Law Fiscal 2008	New Proposals Fiscal 2008	Total Exec. Budget Fiscal 2008	Present Law Fiscal 2009	New Proposals Fiscal 2009	Total Exec. Budget Fiscal 2009	Total Biennium Fiscal 06-07	Total Exec. Budget Fiscal 08-09	
FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Personal Services	0	0	0	0	0	0	0	0	
Operating Expenses	0	0	0	0	0	0	0	0	
Equipment	0	0	0	0	0	0	0	0	
Grants	0	1,040,000	1,040,000	0	0	0	0	1,040,000	
Total Costs	\$0	\$1,040,000	\$1,040,000	\$0	\$0	\$0	\$0	\$1,040,000	
Federal Special	0	1,040,000	1,040,000	0	0	0	0	1,040,000	
Total Funds	\$0	\$1,040,000	\$1,040,000	\$0	\$0	\$0	\$0	\$1,040,000	

New Proposals

Program	Fiscal 2008					Fiscal 2009				
	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 4 - Help America Vote Act-Biennial 01	0.00	0	0	1,040,000	1,040,000	0.00	0	0	0	0
Total	0.00	\$0	\$0	\$1,040,000	\$1,040,000	0.00	\$0	\$0	\$0	\$0

DP 4 - Help America Vote Act-Biennial - An increase of \$1,040,000 federal special revenue for the biennium is requested to provide grants to counties for assistance in completing election reforms of the Help America Vote Act of 2002. The executive recommends that funding be approved as a biennial appropriation.

LFD ISSUE	<p>One Time Only Designation</p> <p>The source of the revenue for this funding is from interest revenue received on deposit of Help America Vote Act of 2002 (HAVA) funds. Once funding is expended, the funds would no longer be replenished. Funding would not be needed for the 2011 biennium. A one time only designation placed on this funding would prevent funds expended in FY 2008 from establishing a base appropriation for the 2011 biennium and preclude the legislature from having to take action to remove the funding during the 2009 Legislature.</p> <p>The legislature may want to designate an appropriation for this purpose as one time only.</p>
------------------	--

Proprietary Rates

Proprietary Program Description

The Office of the Secretary of State conducts its daily operations through a single program, the Business and Government Services Program. The office stores, accesses, microfilms, scans, preserves, and disposes of public documents generated by state and local governments. The office administers corporate filings, registers assumed names and trademarks, processes notary public registrations, and administers the Administrative Rules of Montana (ARM) and the Montana Administrative Register (MAR). The office reviews, approves, maintains, and distributes records of business and nonprofit organizations, and registers and maintains records of secured financial transactions under the Uniform Commercial Codes, including agricultural products, in accordance with the Federal Food Security Act of 1985. The Secretary of State serves as Montana's chief election official and is responsible for the interpretation of application of election laws, except those pertaining to campaign finance. The office also qualifies candidates for the ballot, qualifies initiatives and referendums for the ballot, certifies the language and form of the ballot, publishes the official state voter-information pamphlet, conducts the official canvass of election results, and trains local election officials. The office administers the election reform requirements of the federal Help America Vote Act of 2002.

Proprietary Revenues and Expenses

The Office of the Secretary of State administers one proprietary fund. Revenue is received from fees charged to: 1) state agencies for managing agency records; 2) businesses and corporations for corporate filings, and registration of assumed business names and trademarks; 3) state agencies and users of the Administrative Rules of Montana (ARM) for publishing and distributing the ARM and the Montana Administrative Register (MAR); 4) candidates who file for elections; and 5) Montana citizens who apply to be notaries.

Revenue from intra-state service fees are expected to increase by about 41 percent from FY 2006 to FY 2008 due to: 1) a fee increase to keep fees commensurate with costs; and 2) an accounting change in which revenue will be recorded under a different category in the 2009 biennium than they were recorded in FY 2006.

Administrative fees revenue are expected to increase by 68 percent from FY 2006 to FY 2008 due to: 1) an accounting change, triggered by an audit, will result in recording gross revenues and associated service fee expenses, and not just net revenues, for electronic government Internet services administered through Montana Interactive; and 2) the addition of a new uniform commercial code bulk service fee.

Expenses

The Office of the Secretary of State expended 65 percent of its FY 2006 enterprise funds on personal services and 35 percent on operations. The total expenses in FY 2006 were \$3.5 million.

The proposed budget for this office shows expenses greater than anticipated revenues. This will not cause a deficit situation due to revenues exceeding expenses during the past few years resulting in a positive fund balance. The fund balance increase has largely resulted from a significant increase in business filings. The office is mandated by statute to set fees commensurate with the cost of the office. The office has allowed the fund balance to increase, rather than reduce fees, to satisfy the funding required to implement several technology improvement projects. These projects account for the operating expense growth from FY 2006 to FY 2008 and are currently in various stages of planning and implementation. As these projects are implemented the fund balance will decline and the office will review fees to determine if changes need to be made to maintain revenue commensurate with the cost of the office.

Proprietary Rate Explanation

Rates are based upon an estimate of the cost to provide each individual service and a comparison of fees charged for similar services in other states. Fees are set in state statute or established through the Montana Administrative Procedure Act. Because the proprietary funded portion of the program is funded with an enterprise type proprietary fund, the legislature does not approve fees in HB 2.

The figure for fund 06053 shows the financial information for the fund from FY 2004 through FY 2009.

2009 Biennium Report on Internal Service and Enterprise Funds								
Fund	Fund Name	Agency #	Agency Name	Program Name				
6053	SOS Business Svcs	32010	Secretary of State	Business & Government Services				
			Actual FY04	Actual FY05	Actual FY06	Budgeted FY07	Budgeted FY08	Budgeted FY09
Operating Revenues:								
Filing Fees			2,636,198	2,810,107	3,045,678	2,970,500	3,234,465	3,360,635
Administrative Fees			189,266	228,790	270,791	251,800	454,473	441,473
Intra-State Service			317,508	261,670	296,962	301,696	418,468	420,131
Photocopy Fees & Certificates			107,875	111,693	127,806	120,585	143,233	145,383
Documents Sold			111,096	99,926	111,191	100,250	105,961	99,116
Escheated Revenue			-	941	-	-	-	-
Miscellaneous Receipts			78,145	71,333	31,777	21,180	21,180	21,180
Net Fee Revenue			3,440,086	3,584,459	3,884,204	3,766,011	4,377,780	4,487,918
Investment Earnings			14,252	30,354	106,654	20,000	20,000	20,000
Securities Lending Income			-	-	1,859	-	-	-
Premiums			-	-	-	-	-	-
Other Operating Revenues			67,145	61,180	33,402	-	-	-
Total Operating Revenue			3,521,483	3,675,993	4,026,119	3,786,011	4,397,780	4,507,918
Operating Expenses:								
Personal Services			1,886,459	1,967,271	2,264,595	1,954,192	2,521,701	2,521,865
Other Operating Expenses			1,168,324	1,179,617	1,230,080	1,209,762	3,839,641	2,203,384
Total Operating Expenses			3,054,783	3,146,888	3,494,675	3,163,954	6,361,342	4,725,249
Operating Income (Loss)			466,700	529,105	531,444	622,057	(1,963,562)	(217,331)
Nonoperating Revenues (Expenses):								
Gain (Loss) Sale of Fixed Assets			-	-	-	-	-	-
Federal Indirect Cost Recoveries			-	-	-	-	-	-
Other Nonoperating Revenues (Expenses)			-	-	-	-	-	-
Net Nonoperating Revenues (Expenses)			-	-	-	-	-	-
Income (Loss) Before Operating Transfers			466,700	529,105	531,444	622,057	(1,963,562)	(217,331)
Contributed Capital			-	-	-	-	-	-
Operating Transfers In (Note 13)			-	1,605	-	-	-	-
Operating Transfers Out (Note 13)			-	-	-	-	-	-
Change in net assets			466,700	530,710	533,049	622,057	(1,963,562)	(217,331)
Total Net Assets- July 1 - As Restated			-	-	-	-	-	-
Prior Period Adjustments			282	(4,229)	-	-	-	-
Cumulative effect of account change			-	-	-	-	-	-
Total Net Assets - July 1 - As Restated			-	-	-	-	-	-
Net Assets- June 30			466,982	526,481	533,049	622,057	(1,963,562)	(217,331)
60 days of expenses (Total Operating Expenses divided by 6)			509,131	524,481	582,446	527,326	1,060,224	787,542

Requested Rates for Enterprise Funds						
Fee/Rate Information						
	Actual FYE 04	Actual FYE 05	Actual FYE 06	Budgeted FY 07	Budgeted FY 08	Budgeted FY 09
Photocopy fees & Certificates						
Corporation Certificates	61,905	38,721	31,665	32,000	44,848	46,848
Legislative Copies	4	3	9	250	100	250
Notary Copies	101	21	-	100	100	100
Election Copies	21	306	187	100	100	100
ARM Copies	63	113	134	135	125	125
UCC Certificates	39,686	21,760	19,356	20,000	22,000	22,000
Corporations Copies	18,636	39,704	44,147	40,000	45,000	45,000
UCC Copies	-	10,682	7,182	7,000	8,000	8,000
Certified UCC Copies	2	384	1,004	1,000	2,960	2,960
Certificate of Authenticity	20,245	23,664	24,122	20,000	20,000	20,000
Administrative Fees						
MAR Filing Fees	92,916	88,200	119,029	101,800	117,000	103,000
Fax Transmission Fees	11,998	15,555	16,278	16,000	17,000	18,000
Public Access	77,300	83,144	81,434	80,000	113,188	113,188
Customized Reports	11,275	12,892	16,551	17,000	127,285	127,285
UCC Bulk	0	29,000	37,500	37,000	80,000	80,000
Intra-State Service						
Records Management Storage	167,188	150,998	160,602	159,595	174,762	176,422
Records Management Microfilm	110,251	93,729	100,744	95,625	195,625	195,625
Records Management Vault	91	140	132	124	124	124
Imaging Services	38,228	16,803	15,052	23,302	23,302	23,302
Records Management Boxes	17,171	16,658	15,811	16,546	18,152	18,155
Recycling/Shredding Service	8,632	6,258	4,622	6,504	6,504	6,504
Filing Fees						
Domestic Corporations	375,567	267,938	271,166	260,000	250,000	281,609
Foreign Corporations	160,971	122,634	125,833	125,000	130,000	130,000
Trademarks	12,638	12,235	14,862	15,000	16,000	17,000
Candidate Filing Fees	47,760	105	77,569	0	50,000	0
Domestic LLC	500,879	542,987	652,604	650,000	675,000	712,656
Foreign LLC	46,730	54,815	64,640	65,000	70,000	76,406
Domestic LLP	18,570	10,805	14,965	15,000	15,000	16,000
Foreign LLP	700	170	480	500	500	500
Notary	139,485	99,800	128,685	120,000	120,000	120,000
Assumed Business Name	169,186	182,393	201,835	200,000	220,000	240,000
UCC Filings	222,452	207,015	196,796	200,000	228,006	238,006
Priority Fee	234,420	263,520	296,040	275,000	250,000	225,000
LP Domestic	5,935	8,010	6,570	7,000	7,000	8,000
LP Foreign	2,575	3,100	3,090	3,000	3,000	3,000
Domestic Corporation AR	411,626	584,665	486,562	490,000	546,980	551,731
Foreign Corporation AR	119,950	162,423	153,855	160,000	174,994	175,744
Domestic LLC AR	165,590	252,977	313,804	320,000	371,987	397,111
Foreign LLC AR	21,411	34,515	36,322	40,000	55,998	67,872
Expedite Fee	0	0	0	25,000	50,000	100,000
Documents Sold						
ARM Sets	67,908	52,003	53,750	52,150	48,570	47,050
Reapportionment	343	252	69	300	300	300
Farm Bill	26,962	27,422	26,508	27,000	25,000	20,000
Centralized Voter File	22,436	170	11,343	2,500	12,591	12,591
ARM Extra Titles	10,075	20,080	19,520	18,300	19,500	19,175
Miscellaneous Receipts						
Elections Miscellaneous	570	541	795	500	500	500
Miscellaneous	30,646	23,783	30,302	20,000	20,000	20,000
Service of Process	880	430	680	680	680	680
Note:						
In accordance with 2-15-405, MCA, the Secretary of State's Office establishes fee rates that are commensurate with the overall costs of the office and that are consistent with the prevailing rates charged in the public and private sectors for similar services. The office has strived to set fee rates that balance revenue and expenditures. Office revenue increases or decreases due to a combination of fee adjustments, which the office can control, and the fluctuation in the number of business registrations, which the office cannot control. An enterprise fund balance has allowed the office to plan ahead for major capital investments, including the needed replacement of legacy systems. The office will show an operating loss when the available enterprise funds are utilized for technology initiatives to replace legacy systems and meet business requirements.						