



MONTANA LEGISLATIVE BRANCH

Legislative Fiscal Division

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Director
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DATE: November 13, 2018

TO: State Administration and Veterans' Affairs Committee

FROM: Julia Platt, Fiscal Analyst

RE: Funding for the Secretary of State's Office

The Office of the Secretary of State conducts its daily operations through a single program: Business and Government Services. The program is responsible for elections administration, registration and document filing for Montana businesses, publication of administrative rules, records management of public documents generated by state and local governments, and operational support for the office.

Non-Budgeted Proprietary Funding

The Office of the Secretary of State is funded primarily with non-budgeted proprietary funds derived from document sales and fees established in statute. Prior to the 1997 biennium, the legislature appropriated all proprietary funds. The 1995 Legislature changed statute such that the legislature no longer appropriates most proprietary funds. Examples of exceptions to this change are the liquor warehouse and the state lottery, since their fund balances revert to the general fund.

There are two types of proprietary funds: internal service funds and enterprise funds. Internal service funds are used to account for operations that provide goods or services to other agencies or programs of state government on a cost-reimbursement basis. The legislature approves a maximum rate that programs funded with internal service funds can charge for their services.

Enterprise funds are used to account for operations that provide goods or services to the public on a user-charge basis for operations that essentially act as a business. Enterprise fund operations must be reported to the legislature, though the legislature does not usually approve rates for enterprise funds.

The agency conducts its operations using a single non-budgeted proprietary fund, the business services fund. The four main sources of revenue for this fund are:

- Fees charged to businesses and corporations for corporate filings and registration of assumed business names and trademarks
- Fees charged to state agencies and users of the Administrative Rules of Montana (ARM) for publishing and distributing the ARM and the Montana Administrative Register, and for storage and management of public documents
- Fees charged to candidates who file for elections
- Fees charged to Montana citizens who apply to be notaries

Though the fees charged to state agencies for the Administrative Rules of Montana are an internal service, the legislature does not approve these fees, and the business services fund operates as an enterprise fund.

Other Funding

In the past, the legislature has provided one-time-only appropriations in HB 2 for federal special revenue funds from the Help America Vote Act of 2002 (HAVA). All available funds requiring appropriation in HB 2 were used by the end of FY 2017, so there were no federal funds to appropriate in the 2019 biennium. However, Montana was recently awarded \$3.0 million in HAVA funds for election security, which were appropriated by a budget amendment in FY 2019.

Expenditures

In May of 2018, the Secretary of State's Office hired outside legal counsel to represent the office in a lawsuit challenging the certification of the Green Party for the midterm election after a judge had disqualified dozens of signatures on a certification petition and removed the Green Party from the ballot. According to the state's transparency in government system, the office paid Jones Law Firm PLLC over the course of five months. These payments were made with non-budgeted proprietary funding and totaled \$34,554 in FY 2018 and \$24,929 in FY 2019. The payments are detailed in the chart below:

Fiscal Year	Date	Amount
2018	5/9/2018	18,342
2018	6/7/2018	16,212
2019	7/10/2018	2,663
2019	8/8/2018	12,551
2019	9/7/2018	9,715
TOTAL	TOTAL	\$59,482

In early October of 2018, the Secretary of State's Office contracted with Ultra Graphics LLC for a rush printing job to fix several errors contained in the state voter information pamphlet. The Secretary of State's Office election and voter services division spent a total of \$265,808 in non-budgeted proprietary funding for the voter information pamphlet on October 29, 2018. This amount was recorded in SABHRS, and is detailed below:

Fiscal Year	Date	Amount
2019	10/10/2018	181
2019	10/29/2018	265,627
TOTAL	TOTAL	\$265,808