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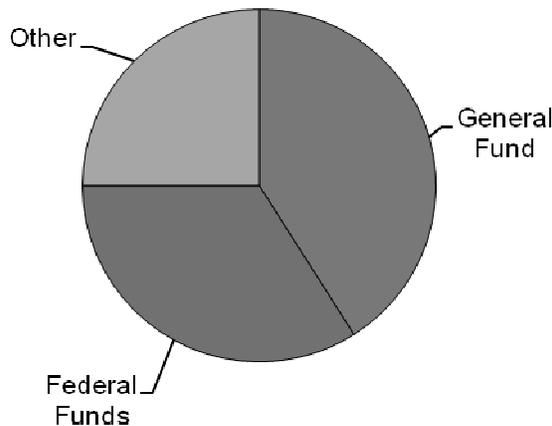
**Agency Purpose**

The Office of the Secretary of State serves the people of Minnesota by administering fair elections through processes that preserve their integrity, promoting citizen participation in elections and government, facilitating commerce, preserving for history the records entrusted to the office, and administering the Safe at Home address confidentiality program.

**At a Glance**

- Approximate number of business, Uniform Commercial Code (UCC), Effective Financing Statement (EFS), and notary filings in databases: 3 million
- Registered voters in databases: 3.1 million (81.9% percent of all eligible voters)
- Web inquiries and transactions: 1.4 billion
- General elections support:
  - 2,000 township elections every year
  - 900 city elections on a two-year cycle
  - 300 school district elections on a two-year cycle
  - 90 state and county elections on a two-year cycle
  - 200 other elections on a two-year cycle
  - Voter registration (VR) requests

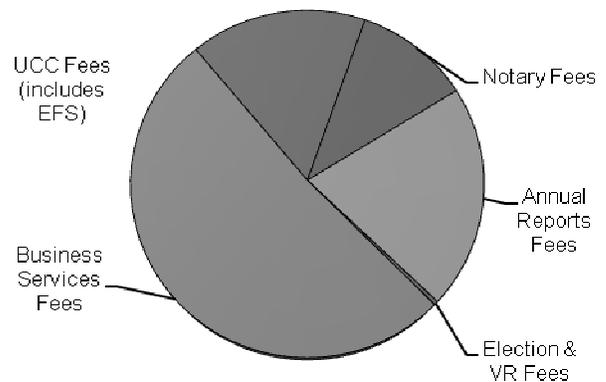
**Est. FY 2010-11 Expenditures by Fund**



Source: Consolidated Fund Statement.

**FY2010-11 General Fund Fee Revenue Sources**

Estimated Total Revenues: \$28 Million



Source: MAPS as of 7/19/10.

**Strategies**

The core functions of the office are

- the administration of elections
- the recording of documents regarding corporations, non-profit associations and business-related loans
- the filing and preservation of the official documents of the state
- the filing of Notary Registrations
- administration of Safe at Home, Minnesota’s address confidentiality program

## Operations

The Office of the Secretary of State works in close partnership with county auditors, county recorders and municipal and township officials in the administration of business filings and oversight of elections.

**Business Services** registers a variety of for-profit and not-for-profit organizations, including corporations, assumed business names, limited liability companies, limited liability partnerships, and limited partnerships. Other business-related filings include notary filings, trade and service marks, and legal newspaper registrations, among others. The Office of the Secretary of State also accepts service of process on businesses under certain specific circumstances. It also maintains a statewide computerized network with county recorders so that the public may search Uniform Commercial Code records throughout the state from any filing office. The office is in the process of conducting a major rewrite of its business computer software that will enable businesses around the state to electronically file most documents with the office and complete on-line searches of the business databases.

**Elections** is responsible for administration of Minnesota election law. In this capacity, the Office of the Secretary of State operates the statewide voter registration system and prepares the official roster of voters for every election conducted in Minnesota. Other election activities include certifying voting systems, conducting administrative recounts, accepting filings by candidates for federal and state offices, training local election officials, and creating materials for use in training election judges. The Office of the Secretary of State provides information to voters on registration, elections, absentee ballots, polling place locations, candidates and election results via individual contact, outreach and maintaining a web site. Over the past four years, the office has expanded its web site to provide all citizens easy on-line access to information identifying their polling places and precinct caucus locations. The office works with a vendor of the United States Postal Service to automatically update a voter's address whenever they move within or outside of the state. Such updates eliminate the need for voters to re-register to vote every time they move. Recent upgrades allow voters to check on the status of their absentee ballots online. The office conducts extensive outreach to help register individuals to vote and encourage all eligible citizens to exercise their right to vote. The office honors our nations' veterans by encouraging everyone to cast their vote in honor of a veteran and write tributes to their veterans for posting on the office's website. The Secretary of State chairs the state canvassing board, which certifies the results of state elections.

The Office of the Secretary of State administers the **Open Appointments** process and publishes the *Minnesota Legislative Manual*, a compendium of federal, state, and county government information. The *2009-10 Minnesota Legislative Manual* included well over 100 tributes to individual veterans that were written by Minnesota citizens.

The Office of the Secretary of State administers the **Safe at Home** address confidentiality program for survivors of domestic violence, sexual assault, stalking, and others who fear for their safety.

The Secretary of State is the keeper of the Great Seal of the State of Minnesota used to certify the authenticity of a wide variety of official documents. These include gubernatorial proclamations, open appointments, oaths and executive orders, enrolled acts of the Minnesota Legislature, rules, municipal documents and authentications and apostilles of official state documents for use in other countries.

## Key Goals & Measures

### Voter Registration

**Goal:** Increase number of registered voters

**Measurement:** Number of citizens registered to vote as entered in SVRS (statewide voter registration system)

<u>FY 2005</u>	<u>FY2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
2,925,000	2,084,000	3,091,000	3,105,000	3,178,000	3,111,000

**Facilitate Commerce – Business Services**

**Goal:** Increase number of filings

**Measurement:** Number of filings processed by mail and online

	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>FY 2010</u>
No. of new Business filings	56,000	55,000	63,000	57,000
No. of annual business renewals	167,000	212,000	217,000	220,000
No. of UCC/Tax Lien & CNS filings	144,000	140,000	134,000	138,000
No. of Notary filings & renewals	10,000	12,000	10,000	44,000

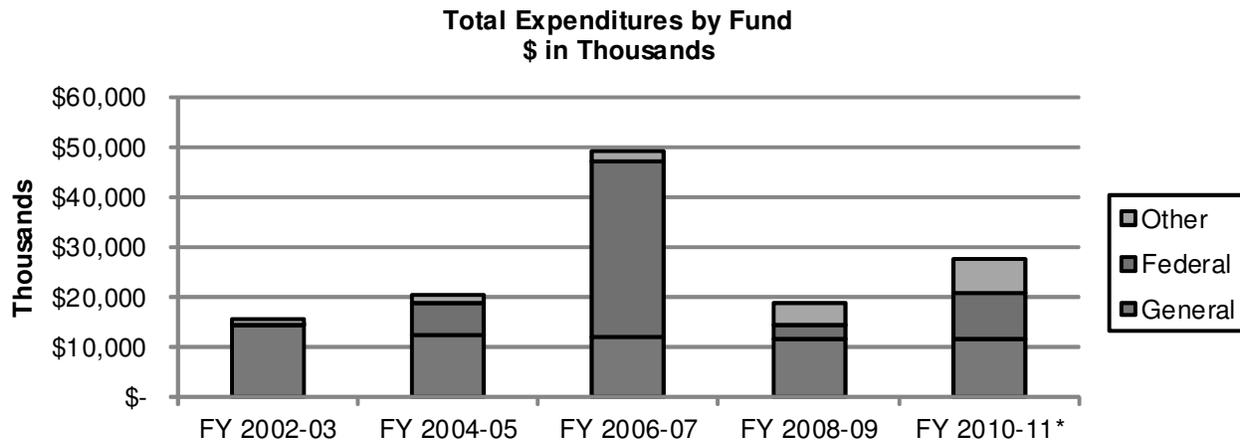
**Access to Information and Services**

**Goal:** Increase in the availability of information and services via the web

**Measurement:** Number of online filings.

	<u>FY 2007</u>	<u>FY2008</u>	<u>FY2009</u>	<u>FY2010</u>
No. of Business web filings	145,000	185,000	195,000	280,000
No. of UCC web filings	85,000	85,000	84,000	88,000
No. of notary renewal web filings	5,000	6,000	6,000	23,000

**Budget Trends**



\* FY 2010-11 is estimated, not actual

Source data for the previous chart is the Minnesota Accounting and Procurement System (MAPS) as of 07/13/10.

The following external factors impact the budget of the Office of the Secretary of State:

- In slow economies, dislocated workers apply their skills and entrepreneurial spirit to create start-up businesses at a greater rate than during good economies; this has led to an increase in business filings.
- Close elections and challenging economic situations generate increased interest in the political process and voting. This has certainly been the case with the 2008 presidential, 2008 U.S. Senate, and the 2010 elections, which include the election of a governor, all other state constitutional officers, and senate and house members.
- With continued growth in the use of the internet, citizens expect to be able to conduct all of their business on-line; this expectation has led to a high demand for the on-line tools for businesses and voters in the past four years.

During the FY 2010-11 biennium, the Office of the Secretary of State projects collecting approximately \$28 million in fees. These fees are deposited into the state general fund. The legislature returns approximately \$6 million annually from the state general fund to the Office of the Secretary of State to cover the office's operating budget. The remaining fees of approximately \$16 million over the two year biennium remain in the state general fund. In addition to the fees deposited in the general fund, the office has a revolving fund of approximately \$1 million each fiscal year for general operations. For the FY 2008-09 biennium and FY 2010-11 biennium, the legislature approved a temporary technology surcharge fee to initiate a rewrite of our Business Center software applications, which will enable most business service transactions to be completed online.

Minnesota has received federal funds from the Help America Vote Act (HAVA) for election-related expenses. These funds have been transferred to the Office of the Secretary of State to carry out activities required under HAVA (P.L. 107-252). This federal law sets national standards and imposes new requirements for the conduct of federal elections. These funds have been critical in the continued improvement of Minnesota's statewide voter registration system and election results reporting system. In the last four years, the Office received a \$2 million competitive grant from the federal Election Assistance Commission and \$364,000 in competitive grants from the PEW Charitable Trust to develop and implement cutting edge election processes. These improvements have included automatic address updates for voters who move using the US Postal Service permanent address change data, implementation of changes to absentee voting laws, the ability for voters to check on the status of their absentee ballots online, and numerous improvements to functionality requested by federal, state and local election officials throughout the nation.

### Contact

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Saint Paul, Minnesota 55155

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Minnesota Relay Service: (800) 627-3529

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Phone: (651) 296-2803  
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Dollars in Thousands

	Current		Governor Recomm.		Biennium 2012-13
	FY2010	FY2011	FY2012	FY2013	
<b><u>Direct Appropriations by Fund</u></b>					
<b>General</b>					
Current Appropriation	5,806	5,659	5,659	5,659	11,318
<b>Recommended</b>	<b>5,806</b>	<b>5,939</b>	<b>5,659</b>	<b>5,659</b>	<b>11,318</b>
Change		280	0	0	0
% Biennial Change from 2010-11					-3.6%
<b><u>Expenditures by Fund</u></b>					
<b>Direct Appropriations</b>					
General	5,403	6,000	5,659	5,659	11,318
<b>Statutory Appropriations</b>					
Miscellaneous Special Revenue	6,462	7,554	3,389	2,572	5,961
Federal	83	0	0	0	0
Gift	57	0	0	0	0
<b>Total</b>	<b>12,005</b>	<b>13,554</b>	<b>9,048</b>	<b>8,231</b>	<b>17,279</b>
<b><u>Expenditures by Category</u></b>					
Total Compensation	6,266	6,627	6,300	6,493	12,793
Other Operating Expenses	5,264	4,425	2,748	1,738	4,486
Local Assistance	475	2,502	0	0	0
<b>Total</b>	<b>12,005</b>	<b>13,554</b>	<b>9,048</b>	<b>8,231</b>	<b>17,279</b>
<b><u>Expenditures by Program</u></b>					
Secretary Of State	12,005	13,554	9,048	8,231	17,279
<b>Total</b>	<b>12,005</b>	<b>13,554</b>	<b>9,048</b>	<b>8,231</b>	<b>17,279</b>
<b>Full-Time Equivalents (FTE)</b>	<b>76.0</b>	<b>72.6</b>	<b>76.7</b>	<b>76.7</b>	

<i>Dollars in Thousands</i>				
	FY2011	Governor's Recomm.		Biennium
		FY2012	FY2013	2012-13
<b><i>Fund: GENERAL</i></b>				
<b>FY 2011 Appropriations</b>	5,659	5,659	5,659	11,318
<b>Subtotal - Forecast Base</b>	5,659	5,659	5,659	11,318
<b>Change Items</b>				
Potential U.S. Dist. Ct. Judg. Legal Fees	280	0	0	0
<b>Total Governor's Recommendations</b>	5,939	5,659	5,659	11,318
<b><i>Fund: MISCELLANEOUS SPECIAL REVENUE</i></b>				
<b>Planned Statutory Spending</b>	7,554	3,389	2,572	5,961
<b>Total Governor's Recommendations</b>	7,554	3,389	2,572	5,961

# SECRETARY OF STATE

## Change Item: Potential Judgment-- Legal Fees

Fiscal Impact (\$000s)	FY 2011	FY 2012	FY 2013	FY 2014
General Fund				
Expenditures	\$280	\$0	\$0	\$0
Revenues	0	0	0	0
Other Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact	\$280	\$0	\$0	\$0

### Recommendation

The Governor recommends a FY 2011 deficiency appropriation to the Office of the Secretary of State for reimbursement of legal fees incurred by a consortium of six national media companies that challenged the constitutionality of M.S. 204C.06, Subdivision 1 prior to the 2008 presidential election. The plaintiffs' demand for legal fees is estimated to be \$280,000, and payment is likely to be ordered before the end of FY 2011. Any amount not necessary for the court-ordered payment of legal fees will be returned to the general fund.

### Rationale

Prior to the 2008 presidential election, the statute in question stated that "No one except an election official or an individual who is waiting to register or to vote shall stand within 100 feet of the building in which a polling place is located." The consortium of media companies filed a lawsuit in U.S. District Court claiming this language prohibited effective exit polling in Minnesota, thereby violating their free speech and freedom of the press. The Minnesota Secretary of State and Attorney General were named as defendants in the lawsuit. Similar lawsuits had been filed in Washington, Florida, Georgia, Kentucky, Wyoming, Montana, Ohio, Nevada and South Dakota. In all cases, the plaintiffs either won their case or the states agreed not to enforce and/or to change their statutes.

Although the Minnesota case never went to trial, U.S. District Court Judge Michael J. Davis granted the plaintiff's request for a preliminary injunction allowing the plaintiffs to conduct exit polling within 100 feet of the buildings in which polling was taking place during the 2008 general election. The 2010 Minnesota Legislature amended the statute to state that "No one except an election official or an individual who is waiting to register or to vote or an individual who is conducting exit polling shall stand within 100 feet of the building in which a polling place is located. The new statute defined the term "exit polling" to mirror the definition from the temporary restraining order.

After the legislative language was changed, the six national media companies stipulated that their lawsuit against Minnesota was moot; however, they reserved the right to pursue, with the Minnesota Secretary of State and the Attorney General, reimbursement of legal fees related to the initial lawsuit. Based on information presented by the plaintiffs in written and oral arguments, the plaintiffs' demand for legal fees is estimated to be \$280,000. The hourly attorney rates used to determine the plaintiffs' total demand range from \$240 per hour to \$844 per hour. The Minnesota Attorney General and the Secretary of State have filed briefs with the Court arguing that no reimbursement of legal fees is warranted and, if the Judge determines otherwise, the amount of legal fees sought by the plaintiffs is excessive.

United States District Court Judge Michael J. Davis will rule on the amount of attorney fees, if any, the State of Minnesota must pay to the plaintiffs. The Office of the Secretary of State lacks sufficient state appropriations to pay the estimated demand for legal fees. The actual amount that is to be paid to the plaintiffs, if any, is likely to be ordered by Judge Davis prior to the end of the 2011 legislative session. The rationale for the amount of the deficiency appropriation is based on the estimated demands of the plaintiffs. The Judge could order a lesser amount or determine that no legal fees are owed by the State. Both the defendants and the plaintiffs will have the right to appeal any ruling by Judge Davis.

### Key Goals and Measures

Avoiding a lawsuit altogether was not an option, as the Secretary of State and the Attorney General do not have discretion about which laws to implement, or in this case, to educate local election officials about. Only on the

basis of a court order could the Secretary of State lawfully instruct local election judges that this statute did not apply to those conducting exit polls.

**Narrative**

In Laws, 2003, 1<sup>st</sup> Special Session, Chapter 7, the Help America Vote Act (HAVA) Account was established. Money received from the federal government under the Help America Vote Act must be deposited in the account. Money in the account must be spent to improve Administration of elections in accordance with the Help America Vote Act, the state plan certified by the governor under the act, and for reporting and administrative requirements under the act and plan.

In regards to the maintenance of effort (MOE) levels both the state and local governments receiving money from the account must continue to spend their own funds at the maintenance of effort level of state and local expenditures for elections functions for the state fiscal year ending June 30, 2000 and the local fiscal year ending December 31, 1999. The state fiscal year ending June 30, 2000 Election budget amount was \$1.925 million.

In June, 2008, Minnesota received a grant of up to \$2 million dollars from the Election Assistance Commission to implement an election date collection program to improve the collection of precinct level data relating to the November 2008 Federal elections. There was no maintenance of effort (MOE) requirement.

Federal Award Name + Brief Purpose	New grant	Required state match/MOE? Yes/No		SFY 2010 Revenues	SFY 2011 Revenues	Estimated SFY 2012 Revenues	Estimated SFY 2013 Revenues
		Match	MOE				
Help America Vote Act Account – HAVA & HHS Grants - the purpose of the HAVA funds was to improve Administration of elections.		Yes	\$1,925,000 – Elections budget for each fiscal year	\$36	\$150	\$0	\$0
Help America Vote Act FED FY08 – same purpose as HAVA		Yes	Part of \$1,925,000	\$16	\$360	\$0	\$0
Help America Vote Act FED FY09 – same purpose as HAVA		Yes	Part of \$1,925,000	\$1,681	\$10	\$5	\$0
Help America Vote Act FY2010 – same purpose as HAVA		Yes	Part of \$1,925,000	\$1,170	\$10	\$5	\$5
Optical Scan Equipment – related to HAVA		No	Part of \$1,925,000	\$0	\$0	\$0	\$0
Elections Data Collection – to improve the collection of precinct level data relating to the November 2008 Federal elections.		No	NA	\$83	\$0	\$0	\$0

*Dollars in Thousands*

	Actual FY2010	Budgeted FY2011	Governor's Recomm. FY2012   FY2013		Biennium 2012-13
<b><u>Non Dedicated Revenue:</u></b>					
<b>Departmental Earnings:</b>					
General	14,169	13,420	13,638	13,676	27,314
<b>Other Revenues:</b>					
General	2	2	2	2	4
<b>Total Non-Dedicated Receipts</b>	<b>14,171</b>	<b>13,422</b>	<b>13,640</b>	<b>13,678</b>	<b>27,318</b>
<b><u>Dedicated Receipts:</u></b>					
<b>Departmental Earnings:</b>					
Miscellaneous Special Revenue	2,661	2,700	1,725	1,780	3,505
<b>Grants:</b>					
Miscellaneous Special Revenue	2,842	460	0	0	0
Federal	83	0	0	0	0
<b>Other Revenues:</b>					
Miscellaneous Special Revenue	60	70	10	5	15
<b>Total Dedicated Receipts</b>	<b>5,646</b>	<b>3,230</b>	<b>1,735</b>	<b>1,785</b>	<b>3,520</b>
<b>Agency Total Revenue</b>	<b>19,817</b>	<b>16,652</b>	<b>15,375</b>	<b>15,463</b>	<b>30,838</b>

# SECRETARY OF STATE

## Change Item: Election Recount --County Reimbursement

Fiscal Impact (\$000s)	FY 2011	FY 2012	FY 2013	FY 2014
General Fund				
Expenditures	\$322	0	0	0
Revenues	0	0	0	0
Other Fund				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact	\$322	0	0	0

### Recommendation

The Secretary requests a FY 2011 deficiency appropriation to the Office of the Secretary of State to reimburse Minnesota's counties for the costs they incurred in conducting the automatic recount of the 2010 Governor's Race. According to a survey of the counties, they incurred \$321,500 in unanticipated expenses resulting from the statewide recount. Of this amount, the Office of the Secretary of State has already reallocated \$65,000 from software license renewals to partially reimburse the counties for their assistance. Each county received \$.03 per ballot or \$100, whichever was greater. The remaining \$256,000 will have to be absorbed by the counties if funds are not appropriated. This deficiency appropriation, to fully reimburse the counties for their recount expenditures and to allow the Office of the Secretary of State to renew needed software licenses, is a one-time only request and will not affect the Office's base budget.

### Rationale

M.S. 204C.35, Subdivision 1(b) requires an automatic recount in a state general election "when the difference between the votes of a candidate who would otherwise be declared elected to a ... state constitutional office ... and the votes of any other candidate for that office is less than one-half of one percent of the total number of votes counted for that office...." The votes reported to the state canvassing board by the 87 county canvassing boards for the election of the Governor met the criteria for an automatic manual recount.

Article 7, Section 8 of the Minnesota State Constitution directs the Secretary of State to convene a state canvassing board to determine the results of state, congressional and federal elections. M.S. 204C.35 further assigns the state canvassing board with the responsibility of conducting any recount required or requested for those elections. The state canvassing board has no budget of its own. As convener of the canvassing board, the Secretary of State has historically assumed the costs associated with the duties of the state canvassing board.

The state canvassing board, acting upon the recommendation of the Office of the Secretary of State, requested the assistance of the 87 counties to manually recount the ballots for Governor cast in their counties. The Office of the Secretary of State recognized this was the most efficient and effective approach to complete the mandatory statewide recount. An alternative plan for a statewide recount, developed by the Office of the Secretary of State in 2006, would have required the secure shipment of all ballots to a central location, the hiring and training of scores of workers, and the centralized recount of over two million ballots. The estimated cost of this plan was over \$1 million in 2006.

Due to the historically rare need for a statewide recount, the legislature has not appropriated sufficient funding to the Office of the Secretary of State or to the 87 counties to conduct statewide recounts.

Failure to provide this deficiency appropriation will require many Minnesota counties to reduce expenditures for other essential services and will jeopardize the ability of the Office of the Secretary of State to maintain all licenses for its computer software.

**Key Goals and Measures**

The deficiency appropriation will reimburse Minnesota counties for their unreimbursed costs associated with the manual counting of votes cast for Governor of the State of Minnesota in the 2010 general election. Article 7, Section 8 of the Minnesota Constitution directs that “the returns of every election for officeholders elected statewide shall be made to the secretary of state who shall call to his assistance two or more of the judges of the Supreme Court and two disinterested judges of the district courts. They shall constitute a board of canvassers to canvass the returns and declare the result within three days after the canvass.” Given this Constitutional mandate, the impartial, fair and accurate counting of ballots, when a manual recount is required by Minnesota statutes, is a core function of the government of the State of Minnesota. The state canvassing board opted to request the assistance of Minnesota counties, political subdivisions of the state, to complete this core function of the government of the State of Minnesota.

While the canvassing board, assisted by the Office of the Secretary of State and Minnesota’s 87 counties, has the constitutional and statutory authority to conduct a statewide recount, the legislature has provided no financial resources to accomplish this function. The annual appropriation from the legislature to the Office of the Secretary of State assumes there will be no statewide recount for the primary or general statewide elections.