

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON WAYS AND MEANS**

**Seventy-Sixth Session
February 25, 2011**

The Committee on Ways and Means was called to order by Chairwoman Debbie Smith at 8:14 a.m. on Friday, February 25, 2011, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblyman Paul Aizley
Assemblyman Kelvin Atkinson
Assemblyman David P. Bobzien
Assemblywoman Maggie Carlton
Assemblyman Pete Goicoechea
Assemblyman Tom Grady
Assemblyman John Hambrick
Assemblyman Crescent Hardy
Assemblyman Pat Hickey
Assemblyman Joseph M. Hogan
Assemblyman Randy Kirner
Assemblywoman April Mastroluca
Assemblyman John Ocegüera

COMMITTEE MEMBERS EXCUSED:

Assemblyman Marcus Conklin, Vice Chair

STAFF MEMBERS PRESENT:

Rick Combs, Assembly Fiscal Analyst
Mike Chapman, Principal Deputy Fiscal Analyst
Brian Burke, Senior Program Analyst
Connie Davis, Committee Secretary
Cynthia Wyett, Committee Assistant

Chairwoman Smith announced that the Committee would review the budget accounts for the Office of the Secretary of State.

ELECTED OFFICIALS – SECRETARY OF STATE

SOS-SECRETARY OF STATE (101-1050)

BUDGET PAGE ELECTED-122

Ross Miller, Secretary of State, indicated that he would present the budget for the Office of the Secretary of State and explain how that budget's revenue stream played a crucial role in the General Fund budget and the state's overall economic climate.

Mr. Miller introduced the following staff to the Committee:

- Scott Anderson, Deputy for Commercial Recordings
- Kate Thomas, Deputy for Operations
- Scott Gilles, Deputy for Elections
- Ryan High, Help America Vote Act (HAVA) Administrator
- Pam Dover, Administrative Services Officer
- Jeff Landerfelt, Commercial Records

Mr. Miller testified from a PowerPoint presentation, [Exhibit C](#), "Biennial Budget Request, FY 2012 & 2013."

According to Mr. Miller, the duties of the Secretary of State's Office were varied and included commercial recordings, which filed corporate formation documents, administered the Uniform Commercial Code, and issued annual state business licenses. Mr. Miller indicated that the Securities Division licensed investment advisors, broker/dealers, athletic agents, and regulated investment activity and enforced state securities laws.

Regarding the Elections Division, Mr. Miller stated that he served as the state's Chief Elections Officer and in that role was responsible for the administration, interpretation, and enforcement of federal and state election laws, including campaign finance and initiative petitions/referenda. The Notary Division

appointed notaries public, conducted training for notaries, enforced notary laws, and issued apostilles. Mr. Miller indicated that he also served as the official record keeper by maintaining the official records of the acts of the Nevada Legislature and of the Executive Branch of state government.

Mr. Miller explained that the Secretary of State's Office managed several programs: (1) the registration of domestic partnerships; (2) the Living Will Lockbox, a registry of advanced directives for health care; (3) maintenance of a statewide ministers' database; and (4) the State Business Portal, a one-stop shop for business-to-government transactions currently under development.

In addition, Mr. Miller said he served on a number of boards including the Board of Examiners; the Tahoe Regional Planning Agency; Committee to Approve Schedules for the Retention and Disposal of Official State Records (State Records Committee) as chair; and the Board of State Prison Commissioners.

Mr. Miller explained that the Secretary of State's Office had expanded to include approximately eight main areas of jurisdiction and responsibility, which was an increase from the four main areas of jurisdiction that were in effect when he took office in 2007. He commented that it appeared whenever the Legislature created a new program that did not fit into any other department, that program often ended up in the Secretary of State's Office.

Mr. Miller said the Secretary of State's Office was a rare example of government being able to expand its services to constituents without increasing the cost to taxpayers for those services. It was important to keep in mind that the Secretary of State's Office was the state's third highest revenue-generating agency. Mr. Miller indicated that the revenue was generated not through taxes, but through fees for services and fines and settlements resulting from violations. The point, said Mr. Miller, was that the interaction necessary to generate that revenue was more intensive than a department that was simply a "collection agency."

According to Mr. Miller, the Securities Division contributed approximately \$20 million to the General Fund in fiscal year (FY) 2009 and FY 2010. Additionally, in that same two-year period, the Securities Division collected \$5.6 million in civil fines and penalties through enforcement actions. That money was available to fund the entire budget for the Securities Division without resorting to the use of General Fund. Mr. Miller noted that in the first seven months of FY 2011, the Securities Division had generated General Fund revenue of \$20.4 million as compared with \$17 million for the same period in FY 2010. That would seem to indicate that an economic recovery was

underway, at least in the securities industry. Mr. Miller stated that of equal importance was the nearly \$1.8 billion in restitution recovered by the Securities Division over the last biennium and paid directly to Nevada investors.

Mr. Miller said the Commercial Recordings Division brought in more than 80 percent of the revenue in the Secretary of State's Office, and Nevada was second per capita in business filings only to Delaware. He stated Nevada was viewed in the eyes of the nation's business public as the second best place in the country to incorporate to conduct business. Mr. Miller said since he had taken office in 2007, the Secretary of State's Office had made it a priority to promote Nevada as the premiere business filing jurisdiction through enhancement of the state's electronic filing application, and the Office had focused on collecting revenue that had not been captured.

The 75th Session (2009) transferred the collection of the state business license filing fees from the Department of Taxation to the Secretary of State's Office, which resulted in measurable new revenue to the state. Mr. Miller stated that the Department of Taxation had collected \$19.6 million in fiscal year (FY) 2009 compared to collection of \$37.6 million by the Secretary of State's Office in nine months of FY 2010.

Mr. Miller referred to page 3 of [Exhibit C](#), which depicted the commercial recordings revenue and state business license revenue per month collected by the Secretary of State's Office. Although there was limited historical data to gauge business license filing cycles, the peak in June and subsequent decrease until reaching the floor in December, was consistent with the cycles of other entity filings. The Secretary of State's Office expected the growth in business license filings experienced in December and January to continue through June, meeting or exceeding the filings experienced during the same period in 2010.

Mr. Miller stated that it was important to note, as depicted by the graph on page 3 of the exhibit, that revenue from business license filings would drop by approximately \$25 million because of the sunset provision effective July 1, 2011.

An important focal point, said Mr. Miller, was the issue of business license exemptions, which the Secretary of State's Office currently did not enforce. Mr. Miller stated that tightening up collection of that existing revenue was a high priority for the Secretary of State's Office.

Mr. Miller believed that at a time when the state was considering increasing taxes, reducing services, closing prisons, and slashing the education budget, attention should be focused on collecting existing revenue that had not been

captured. Certainly, said Mr. Miller, the Secretary of State's Office felt strongly that its core fees could not be raised without putting Nevada at a competitive disadvantage. However, to meet the state's revenue obligations, the Secretary of State's Office must collect those fees that were already on the books. Mr. Miller believed the statutory authority to collect those fees was already in place, but it needed further clarification and proper application.

Chairwoman Smith asked about the bill that would clarify the procedure. Mr. Miller replied that Assembly Bill 78 was the bill that would provide the clarification in statute, and it was currently before the Assembly Committee on Judiciary.

Mr. Miller indicated that if the Secretary of State's Office was to meet the projections expected of it to provide the essential revenue needed by the state, the Office needed the resources to process business filings and collect the associated revenue. Additionally, said Mr. Miller, the customers and constituents of the Secretary of State's Office expected a certain level of attention and customer services. Assessing any budget accurately required a context of accomplishment or productivity, and Mr. Miller believed that the Secretary of State's Office had established a strong record in that regard. The Secretary of State's Office had worked very diligently to maintain a certain level of service to Nevadans in the face of some fairly severe budget restrictions.

Mr. Miller referred to the graph on page 5 of [Exhibit C](#) that depicted declining budgetary expenditures. The Secretary of State's Office had consistently been asked to do much more with less. Mr. Miller said when he first took office in 2007, there were 143 employees within the Secretary of State's Office and currently there were only 127.5 full-time equivalent (FTE) positions to carry out the previously existing services, along with a host of additional programs and responsibilities. Those additional programs included the Domestic Partnership Registry; the Advanced Directives Registry; state business license filings; and the Nevada Business Portal.

Over the last biennium, said Mr. Miller, the Secretary of State's Office surpassed the requested 14 percent budget cuts and reduced the agency budget by 21 percent through layoffs, position eliminations, additional reversions, and ongoing efficiencies. That amount included savings reductions totaling more than \$1.4 million to balance a deficit created by a budgetary shift of General Fund to special services revenue, in excess of the cuts requested of any other state agency.

Mr. Miller stated that through reorganization the Secretary of State's Office had been able to adapt and had absorbed the cost of providing additional services. During a time of cutting back budgets and resources, through creative solutions that empowered staff to problem-solve and be solution-oriented, the Secretary of State's Office had succeeded.

Mr. Miller indicated that in fiscal year (FY) 2010, the Secretary of State's Office brought in \$132.6 million, or just over \$1 million in revenue per full-time equivalent (FTE) position. He compared that amount to FY 2007, when \$104.3 million in revenue was collected with 138.5 FTE positions for an average of \$753,037 per FTE position.

According to Mr. Miller, there came a point of diminishing returns, and he would not suggest that such a trend could continue, because it could not. It was against the laws of nature to expand when everything else was contracting. The Secretary of State's Office had clearly taken on additional responsibilities, some of which it had created and some that it had taken on to enhance productivity.

Mr. Miller indicated that veteran legislators knew all too well that the Secretary of State's Office had consistently responded to prior budget reduction requests by staff layoffs, cutting expenditures, and reorganizing operations and through use of technology, particularly in the area of online services, to make its resources go further. The Office had continued to provide reliable and efficient services.

Mr. Miller honestly believed that he had not "cried wolf" when he had pleaded his case that any further cuts in the operation of Office of the Secretary of State's Office would endanger the productivity of the third largest revenue stream in the state. When considering various budget cuts during legislative hearings, legislators would hear about the long-term negative effects of budget cuts, such as the effect a current budget cut would have on a particular state service 30 years in the future.

In many cases, said Mr. Miller, that testimony would be true, but in the case of the Secretary of State's Office, further budget cuts would create a very real and immediate effect. The effect of budget cuts to the Secretary of State's Office did not present a hypothetical scenario and would be felt sooner, rather than later. Mr. Miller advised that everyone was well aware of the effect created by budget cuts within the Secretary of State's Office because of extended wait times in customer service and dramatically increased processing times, which would have a significant effect on the revenue stream and would jeopardize a significant revenue source for the state.

Mr. Miller said during the 2009 Legislative Session he had asked for the reinstatement of six administrative-assistant-level staff to reduce processing times and to ensure that customer service response times were significantly improved. The Secretary of State's Office was faced with processing times that affected the largest revenue-generating function in the Office, and the addition of that staff had allowed the Office to return to acceptable service levels, as depicted on page 6 of [Exhibit C](#), "Commercial Recordings, Backlog Days by Division (peak times)."

As prepared, said Mr. Miller, the budget complied with the funding cap requested by the Governor. The Secretary of State's Office currently included two primary budget accounts:

1. Budget account (BA) 1050, Secretary of State, which addressed the general operation of the Office including Securities.
2. BA 1051, HAVA Election Reform, which was the Help America Vote Act (HAVA) account that was approximately 99.7 percent federally funded for fiscal year (FY) 2011 and required only minimal state matching funds.

Mr. Miller explained that the current budget proposed the creation of a separate budget account, (BA) 1058, to fund the activities of the State Business Portal. He explained that BA 1050 currently encompassed the majority of revenue, expenditures and full-time equivalent (FTE) positions for the Secretary of State's Office. Over the past four years, Mr. Miller noted that FTE positions had decreased to the 127.5 included in the current budget request.

Mr. Miller said he would characterize any enhancements that had been included in the Secretary of State's budget request as minor and modest. The few enhancements in the budget were necessary to streamline operations within the Secretary of State's Office, such as more effectively allocating limited resources, reducing waste, and providing innovative service delivery. The ability of the Secretary of State's Office to do so hinged, in part, on the creation of a separate budget account to address the State Business Portal. Mr. Miller indicated that BA 1058 would be created by transferring a portion of credit card discount fees, four FTE positions, and various operating, informational, and contract services to that account.

Per Mr. Miller, the request to establish BA 1058 was made to isolate and track all expenditures pertaining to the State Business Portal as it continued to grow and expand services and add participating agencies. By way of explanation, Mr. Miller stated that in the spring of 2011, the Secretary of State's Office would launch the State Business Portal. The Portal would be a one-stop shop to

streamline the establishment of businesses in Nevada and to conduct ongoing transactions with the state and, eventually, municipal and county governments. It was not an exaggeration to say that the Portal would redefine how Nevadans interacted with government, and it would dramatically raise the bar for customer service. Once the Portal was in place, Nevada would be the only state in the nation that offered a true one-stop shop for business transactions.

Mr. Miller emphasized that it was important for Nevada to launch the State Business Portal. There had been much discussion about the importance of creating a business-friendly climate in Nevada, and Mr. Miller firmly believed that as the first point of contact for many new businesses, the Secretary of State's Office had an obligation to do whatever possible to not only maintain that climate, but to improve it whenever possible.

Mr. Miller opined that all spending reductions were difficult and the recommendations included in The Executive Budget would cut even further. He stated that he could accept most, but not all, of those cuts. Mr. Miller was aware that legislators valued efforts to nurture Nevada's pro-business climate, and in that vein, the State Business Portal would eventually become one of the state's proudest accomplishments. For that reason, Mr. Miller asked legislators to strongly reconsider adding back one full-time equivalent (FTE) administrator position to the Secretary of State's budget. He explained that the budget for the Secretary of State's Office originally included the new FTE administrator position for the State Business Portal at a cost of \$123,917 in fiscal year (FY) 2012 and \$122,934 in FY 2013. However, that FTE position request had been eliminated from The Executive Budget.

According to Mr. Miller, the State Business Portal administrator position was critical to the overall administration and maintenance of the Portal to ensure it met the objectives of streamlining business-to-government transactions across the state, including those involving local government jurisdictions. If the State Business Portal was to truly become a one-stop shop as a transactional portal, an administrator position would be necessary to recruit and coordinate new governmental agency partnerships. Mr. Miller asked legislators to keep in mind that, ideally, the State Business Portal would bring together state, municipal, and county agencies throughout the state, and each minor variance in policy, regulations, or technology would need to be addressed to make the State Business Portal work as it should.

The administrator position, said Mr. Miller, would manage all vendor contracts for the development and maintenance of the infrastructure hosting the State Business Portal technology. The administrator would also be responsible for addressing all policy and operational challenges and managing opportunities

for service expansion. The administrator would provide leadership in using the most current technology and security standards. Mr. Miller noted that the administrator would also coordinate with the business community and other users of the State Business Portal.

Mr. Miller said the State Business Portal was one of those things that appeared to be deceptively simple or almost "wizard-like." He noted that there were, in fact, parts of the technology that were called "wizards." Mr. Miller reiterated that without the essential element of the administrator position, the State Business Portal simply could not operate. If the Secretary of State's Office built out the State Business Portal and attempted to operate it without a dedicated administrator, it would waste several years of effort and millions of dollars. Mr. Miller indicated that to not fund the position would be the epitome of "penny-wise and pound-foolish."

Additionally, said Mr. Miller, his proposal was that funding from a securities settlement would be applied pursuant to *Nevada Revised Statutes* (NRS) 90.851, to free up the General Fund money necessary to fund the requested administrator position over the upcoming biennium.

Mr. Miller indicated that concluded his budget presentation and he would be happy to answer questions from the Committee.

Assemblyman Bobzien said he had been tracking the development of the State Business Portal for many months, and the progress thus far had been impressive. He noted that he had used the State Business Portal as a small business owner and he believed it held great promise for the future. Assemblyman Bobzien agreed on the need for the full-time equivalent (FTE) administrator position. The concept of the State Business Portal was one of simplicity and streamlining the business process. However, he believed that many persons failed to realize the complexity of creating the Portal, particularly with the inclusion of local jurisdictions. There had to be a person in charge that would bring the data schemes and systems together under one Portal. Assemblyman Bobzien believed that without the administrator position, the project would be "dead in the water," and he asked whether that was a fair assessment.

Mr. Miller stated that was correct. He included himself as one of the persons who was naive about the difficulty of the State Business Portal project. The obvious point was that if it were a simple process, some other state would have already initiated a portal. Mr. Miller reiterated that establishment of the State Business Portal was a very complicated process, and he explained that the

technology would bring the 17 agencies throughout the state that collected the same information on paper-based forms together under one umbrella.

Mr. Miller said he had falsely interpreted the issue to be that the public sector was slow to embrace technology that had already been put into place in the private sector, but that was not the problem. The problem was that there were several agencies that used separate systems, and the portal concept required a change in the processing of those individual systems, the establishment of the State Portal, and the inclusion of businesses and local entities into the system.

Mr. Miller emphasized that establishment of the State Business Portal would require leadership in the form of an administrator, and without that dedicated high-level administrator to shepherd the process, the State Business Portal would fail. Fortunately, the 2009 Legislature had appropriated the funds to design, develop, and implement the State Business Portal, and obviously approval of the administrator position would be the proper action by the 2011 Legislature.

Mr. Miller opined that the State Business Portal would result in tens of millions of dollars in additional revenue for the state, would be more efficient, and would ultimately reestablish Nevada's status as the most efficient pro-business jurisdiction in the nation. However, there had to be an administrator to run the State Business Portal and without that, Mr. Miller did not think the project would survive.

Assemblyman Bobzien thought there might be an opportunity for additional benefits to local governments through the administrator position to bring jurisdictions with antiquated processes and excess paper into the State Business Portal. As a businessman who had bounced from the Washoe County Courthouse, back to the City of Reno, and then back to the state to establish his own enterprise, Assemblyman Bobzien was aware of the progress that could be realized through modernizing local processes to interface with the State Business Portal. He was quite cognizant of the benefit of the administrator position, not only for the Secretary of State's Office, but also for local jurisdictions.

Mr. Miller stated that the first phase of the State Business Portal was collection of the business license fees and the second phase, which would be available soon, was the development of the architecture that would allow interface with various state agencies, such as services offered by the Department of Taxation through Sales and Use Tax permits. The Secretary of State's Office was already planning for the next phase, which was to interface with county and local jurisdictions. Mr. Miller said the City of Las Vegas, Clark County, and

Carson City had agreed to participate and interface with the State Business Portal. That connection would be available as quickly as municipalities could automate their processes and plug into the Portal.

Assemblyman Hickey voiced appreciation for the hard work and the multitasking by staff of the Secretary of State's Office. He asked whether the State Business Portal would help the decrease in business incorporations in Nevada or was that primarily because of how inexpensive it was to incorporate in other states, particularly Delaware.

Mr. Miller believed that Nevada was doing quite well in the area of incorporations. In an attempt to shore up the budget and maintain Nevada's competitiveness, the bottom line was that revenues had increased through the Secretary of State's Office. For the third highest revenue-generating agency, that was a very positive statistic. Mr. Miller said that certainly, the State Business Portal would help. He explained that Nevada's market did not include Fortune 500 companies, and those companies would not remove their incorporation from Delaware to incorporate in Nevada. Mr. Miller advised that Nevada was able to market itself to small- and medium-size businesses. Perhaps one of the most significant benefits that Nevada could market was that incorporating in Nevada would not involve a cumbersome, bureaucratic process.

Mr. Miller pointed out that the Secretary of State's Office had managed to streamline the process so that a person could use a computer in California to undertake the entire process of incorporating a small "mom-and-pop" business in Nevada and pay the appropriate fees online. To renew that incorporation the following year, the person could simply log into the account and select the appropriate licenses and fees to be renewed, make any necessary changes, and complete the process with one "click of the mouse." Mr. Miller believed that process was "light years" ahead of the process available in any other state.

Chairwoman Smith commented that she and a few other members of the Committee had sat in on the meeting with representatives from the TechAmerica Foundation and several companies about what Nevada needed to do to attract their business. TechAmerica was very clear that the ease of conducting business was very important to the businesses, and there was much discussion about interfacing with local governments to make the process more user-friendly.

Chairwoman Smith said the State Business Portal appeared to be a worthwhile investment. She wondered what the rationale had been behind the removal of the requested administrator position in The Executive Budget, and how the Secretary of State's Office was expected to bring the program to fruition

without the administrator position. Chairwoman Smith asked whether Mr. Miller and the Governor's Office had held a recent conversation since the TechAmerica Foundation had so clearly discussed the need for the type of service offered by the State Business Portal.

Mr. Miller indicated that the Secretary of State's Office had submitted its budget for review by the Governor's Office, and when The Executive Budget was introduced, the administrator position had been removed. He stated he had met early in the process with the Governor to explain the State Business Portal and the relative importance of the administrator position. At that time, the Governor indicated the position would be a priority and said he understood the efficiencies that were necessary. Mr. Miller stated that he did not know why the position had been eliminated.

Assemblyman Ocegüera believed it would be interesting to hear from the Governor's Office and perhaps that was a discussion that Chairwoman Smith and he should undertake with Governor Sandoval. Based on recent conversations about economic development, the Governor seemed to understand the importance of the State Business Portal as a "first stop" for persons in the State of Nevada to incorporate their businesses. Assemblyman Ocegüera said it appeared that the administrator position should be included in the budget for the Secretary of State's Office.

Chairwoman Smith asked for clarification regarding the positions to support the State Business Portal. She noted that it appeared the support positions had been approved, but the administrator position had been eliminated. Mr. Miller stated that was correct. The Secretary of State's Office had identified funding for the position through receipt of a securities settlement and would bring that funding request before the Interim Finance Committee (IFC) to be included in the budget.

Chairwoman Smith asked whether the Secretary of State's Office was aware of any additional pending Auction Rate Securities or other securities settlements other than the \$17,164 identified in the response to Legislative Counsel Bureau, Fiscal Analysis Division staff.

Mr. Miller said he was aware of one additional settlement that remained under negotiation. He could not guarantee an amount based on that settlement until negotiations were complete. Auction Rate Security settlements were the result of violations committed by firms in the sale of securities and were a debt instrument for which the overall value of the securities was put up for auction and sold as cash equivalents. Mr. Miller noted those sales had occurred because of significant security violations that had taken place with respect to

the sale of Auction Rate Securities. Therefore, there had been a series of settlements from major financial institutions that sold the securities after the financial collapse of 2008, in response to significant pressure from attorneys general and secretaries of state who oversaw securities.

Mr. Miller reiterated that there was an additional settlement under negotiation in the amount of approximately \$1 million. The Secretary of State's Office had to finalize the terms with the financial institution prior to receipt of the money. The Secretary of State's Office intended to ask the Legislature for the authority to appropriate that \$1 million to fund the requested administrator position among other items.

Chairwoman Smith asked Mr. Miller to work with Fiscal Analysis Division staff regarding changes to the budget that were necessary to accurately reflect the balance forward of Auction Rate Securities and other reserves. She noted that there appeared to be issues with domestic partnership fees and Auction Rate Securities.

Mr. Miller said there were some changes in the budget regarding domestic partnership fees, and he asked Ms. Thomas to speak to the nuances of those changes.

Kate Thomas, Deputy for Operations, Office of the Secretary of State, said there had been some minor adjustments to the budget. At the time the budget was submitted, there was a miscalculation of the revenue associated with domestic partnership fees. Ms. Thomas said she would commit to work with Fiscal Analysis Division staff to determine the correct balance. There was also a funding plan in place to fill the hole in the budget over the biennium created by that miscalculation.

Chairwoman Smith asked Ms. Thomas to address the audit conducted by the Legislative Counsel Bureau (LCB) Audit Division. She was aware that the Secretary of State's Office had accepted the recommendations of that audit, and she wondered what improvements had been made regarding deposits and checks.

Ms. Thomas explained that one item identified by the LCB audit was the issue of the Secretary of State's Office being required to deposit monies or checks received within 24 hours of receipt in the Office's mailroom. As many Committee members were aware, because of staffing shortages and the abundance of mail processed on a daily basis, that requirement had not been met for quite some time. Through conversations and recommendations by the LCB Audit Division, the Secretary of State's Office met with the

Treasurer's Office and proposed a solution to staff. Ms. Thomas noted that staff actually took the situation into their own hands and devised an even better solution.

Ms. Thomas reported that the Secretary of State's Office had been current on depositing those checks through a modification in its mailroom process, again because of the solution proposed by staff. Ms. Thomas indicated that the Secretary of State's Office had been current in its deposits for approximately one month and anticipated that it would remain current from this point forward. The grand total of revenue lost to the state by the Office failing to properly deposit checks was approximately \$3,400, which was not significant, but it was a modification that needed to be made to comply with statutory requirements.

The second issue, said Ms. Thomas, was refinement to the Secretary of State's Office policies and procedures, and that process was currently underway. There had been an issue regarding the security of passwords in the various electronic programs, and those changes had been completed. Ms. Thomas indicated that the Secretary of State's Office was up to speed on many, if not all, of the recommendations outlined in the report from the LCB Audit Division. By the time the six-month report was due in September 2011, the Office should be current on all recommendations from that audit.

Chairwoman Smith pointed out that the Legislature was working with the Governor's Office to develop an employee incentive program, and staff of the Secretary of State's Office devising a solution to the mailroom process was the type of situation that the incentive program brought to mind. The program would reward employees who devised measures that saved the state money and were more efficient.

Chairwoman Smith asked about the transfer of a notary position as recommended in decision unit Enhancement (E) 901. Ms. Thomas indicated that the original proposal was to transfer an existing position to budget account (BA) 1057, which provided support for notary training, to free up sufficient General Fund revenue to meet the budget cap. In discussion with Fiscal Analysis Division staff and the Budget Division, another method was recommended that would remove the position from the General Fund.

By way of clarification, Rick Combs, Assembly Fiscal Analyst, Fiscal Analysis Division, explained that The Executive Budget recommended transfer of the position to a budget account that seemed appropriate from the standpoint of fees that were generated in the account and the duties of the position. Mr. Combs noted that, historically, budget account (BA) 1057 was not included

in The Executive Budget, and with the exception of occupational licensing boards, state positions were not usually transferred to nonexecutive budget accounts. Mr. Combs indicated that he had spoken to the Budget Division as well as the Secretary of State's Office, and both seemed amenable to simply transferring the revenue from BA 1057 to BA 1050 to cover the costs of the position, thereby allowing the position to remain within The Executive Budget.

With no further questions regarding BA 1050, Chairwoman Smith closed the hearing and opened the hearing on BA 1051.

ELECTED OFFICIALS – SECRETARY OF STATE
SOS-HAVA ELECTION REFORM (101-1051)
BUDGET PAGE ELECTED-131

Ross Miller, Secretary of State, explained that budget account (BA) 1051 was 99.7 percent federally funded, and required a minimal amount of state matching funds. Mr. Miller reported that the Office of the Secretary of State had received approximately \$23 million in federal funds, which was used to replace voting machines and comply with federal mandates in the running of elections. There was approximately \$6.5 million remaining in BA 1051.

Chairwoman Smith asked about extending the contract with Sequoia Dominion Voting Systems for services and warranties to support existing voting machines. Mr. Miller indicated that the Secretary of State's Office would extend the contract with Sequoia Dominion Voting Systems to maintain the approximately 3,600 voting machines throughout the state. Eventually, said Mr. Miller, those machines would need to be replaced or another means of running the election would be necessary, which would cost approximately \$18 million.

Chairwoman Smith asked about the services covered by the contract. Mr. Miller explained that the contract funded the ongoing maintenance of the state's voting machines such as the warranty work. The vendor also supplied the staff needed to service the machines and make sure they were properly programmed to run the election and that the machines maintained the required security protocols required by federal law.

Assemblyman Hambrick said there were persons throughout the state who always "pointed fingers" about the quality of the product coming out of the voting machines. He would like to see some type of public announcement around election time throughout the state that re-emphasized the security protocols of the voting machines. Assemblyman Hambrick stated there were always fringe groups that became upset over the use of voting machines, and he believed the Secretary of State's Office should respond to the accusations to

ensure that persons retained faith in the machines. Assemblyman Hambrick said he trusted the machines, but perhaps additional public announcements would help alleviate the situation.

Mr. Miller said public announcements were also a priority of the Secretary of State's Office every election cycle. Over the past election cycle, several complaints had been lodged suggesting that the voting machines had possibly been preprogrammed and when an individual selected a certain candidate, the machine had preselected a different candidate. Mr. Miller said there was an Election Integrity Task Force in Nevada comprised of the Secretary of State's Office, the Office of the Attorney General, local law enforcement entities, the Federal Bureau of Identification (FBI), and the Department of Justice. When complaints were lodged, the Task Force immediately dispatched agents and investigators to respond to those complaints and conduct interviews. Mr. Miller indicated that the Task Force could not substantiate even one complaint that a machine had been preprogrammed and persons were not allowed to vote for the candidate of their choice.

Mr. Miller agreed with Assemblyman Hambrick and said he also had absolute confidence in the voting machines. He believed they were the premiere way to run an election in the country. Nevada was the only state that used the same voting machines in 100 percent of its jurisdictions and that used machines that were also outfitted with the voter-verifiable paper trail. Most complaints nationwide were centered on machines that did not offer that voter-verifiable paper trail. Mr. Miller said the Secretary of State's Office had conducted a post-election audit every year since 2002, comparing the paper tally with the electronic tally to ensure that there were no discrepancies and, to date, none had been discovered.

Mr. Miller said the Secretary of State's Office tried to broadcast public information about the voting machines, but unfortunately individuals were very cynical about elections and had a natural distrust of the system. Mr. Miller indicated that the Secretary of State's Office would work very diligently to overcome that cynicism. He noted that the 2012 election would be closely monitored.

Chairwoman Smith said comments had been made at prior hearings about the commendable job done by the Secretary of State's Office during the last election. Everyone involved in that process appreciated the fact that the Secretary of State's Office had a very difficult job that it handled quite well.

With no further questions, Chairwoman Smith closed the hearing regarding budget account (BA) 1051 and opened the hearing on BA 1058.

ELECTED OFFICIALS – SECRETARY OF STATE
SOS-STATE BUSINESS PORTAL (101-1058)
BUDGET PAGE ELECTED-136

Chairwoman Smith explained that the creation of budget account (BA) 1058 would establish an independent account for the State Business Portal, separate from the Office of the Secretary of State's main operating account, BA 1050. The Executive Budget recommendation would transfer the support positions but would not create the administrator position.

Mr. Miller stated that was a correct assessment. The request would create a separate account so the Secretary of State's Office could appropriately track the revenue associated with the State Business Portal. Obviously, the State Business Portal would funnel fees from both state and local agencies, and a separate account would make it easier to track the expenditures and associated revenue.

Chairwoman Smith asked whether there were further questions about the request to create BA 1058, and there being none, she closed the hearing. She thanked Mr. Miller for his presentation and voiced appreciation to the staff of the Secretary of State's Office.

Chairwoman Smith opened public comment and asked whether anyone wished to address the Committee regarding the accounts within the Secretary of State's Office. There being no public comment, Chairwoman Smith closed the hearing regarding the budget accounts within the Secretary of State's Office.

With no further business to come before the Committee, Chairwoman Smith adjourned the hearing at 9:00 a.m.

RESPECTFULLY SUBMITTED:

Connie Davis
Recording Secretary

Carol Thomsen
Transcribing Secretary

BY
APPROVED:



Assemblywoman Debbie Smith, Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Ways and Means

Date: February 25, 2011

Time of Meeting: 8:14 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Ross Miller, Secretary of State	Budget Presentation