

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

**Seventy-Eighth Session  
February 5, 2015**

The Committee on Ways and Means was called to order by Chair Paul Anderson at 8:03 a.m. on Thursday, February 5, 2015, 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/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman Paul Anderson, Chair  
Assemblyman John Hambrick, Vice Chair  
Assemblyman Derek Armstrong  
Assemblywoman Teresa Benitez-Thompson  
Assemblywoman Irene Bustamante Adams  
Assemblywoman Maggie Carlton  
Assemblywoman Jill Dickman  
Assemblyman Chris Edwards  
Assemblyman Pat Hickey  
Assemblywoman Marilyn K. Kirkpatrick  
Assemblyman Randy Kirner  
Assemblyman James Oscarson  
Assemblyman Michael C. Sprinkle  
Assemblywoman Heidi Swank  
Assemblywoman Robin L. Titus

**STAFF MEMBERS PRESENT:**

Cindy Jones, Assembly Fiscal Analyst  
Stephanie Day, Principal Deputy Fiscal Analyst  
Karen Daly, Committee Secretary  
Cynthia Wyett, Committee Assistant



The Secretary called the roll and all members were present. The Chair opened the hearing on the budget of the Office of the Secretary of State and invited the Secretary of State, Barbara K. Cegavske, to present the upcoming biennial budget for the Office of the Secretary of State.

**ELECTED OFFICIALS**

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**SOS - SECRETARY OF STATE (101-1050)**

**BUDGET PAGE ELECTED-159**

Barbara K. Cegavske, Secretary of State, Office of the Secretary of State, presented the proposed budget for the Office of the Secretary of State for the 2015-2017 biennium. She informed the Committee that she would present a PowerPoint presentation with office highlights and details of budget accounts ([Exhibit C](#)). She proceeded with the introduction of the staff members and presented an overview of the Office of the Secretary of State:

- The Office of the Secretary of State (SOS) was one of the original Constitutional offices established in the *Constitution of the State of Nevada*.
- The Office had the responsibility of maintaining the official records of the acts of the Legislative and Executive Branches of government.
- The Secretary of State served as the Chief Officer of Elections, registrar of corporations and other business entities, and Administrator of the Uniform Securities Act.

Ms. Cegavske further advised that the Secretary of State served on several boards and commissions:

- State Board of Examiners
- Board of State Prison Commissioners
- Board of Economic Development
- Executive Branch Audit Committee
- Committee to Approve Schedules for the Retention and Disposition of Official State Records (Chair)
- Governing Board of the Tahoe Regional Planning Agency (TRPA)

She noted that the budget did not include direct resources or staffing for these boards or commissions and that the functions were part of the overall duties of the Office of the Secretary of State.

Ms. Cegavske explained that the SOS Office was organized into six divisions:

- The Commercial Recordings Division was responsible for the filing of corporate formation documents, Uniform Commercial Code (UCC) filings, and the issuance of state business licenses.
- The Business Portal Division maintained and operated SilverFlume, Nevada's business portal, for business to government filings and licensing transactions.
- Staff of the Elections Division served as the Chief Election Officer responsible for the administration, interpretation and enforcement of the state's election laws, initiative petitions, referenda, and the federal Help America Vote Act (HAVA).
- The Notary Division was charged with appointment of notaries public, notary training, enforcement of notary laws, and issuance of apostilles.
- Operations maintained the internal functions of the Office, which included accounting, budgeting, information technology, and personnel management.
- The Securities Division regulated investment activities, enforced the state's security laws, and issued licenses for investment advisors, brokers, dealers, and athletic agents.

Ms. Cegavske added that the Office was responsible for the administration of various other programs, including domestic partnership registration; the living will lockbox, an online registry of advanced health care directives; documentation preparation services registration; and the confidential address program. The confidential address program granted victims of domestic violence, assault, sexual assault, or stalking the use of a fictitious mailing address to reduce the risk being tracked by public records when they entered into business relationships with state and local agencies.

Ms. Cegavske stated that the SOS Office had 132 full-time-equivalent (FTE) positions, and of those, 123 FTEs had been filled or had a start date pending. She indicated that the budget request for the upcoming biennium would include the addition of seven positions, which she would discuss in detail later in the presentation. She stated that the SOS Office was responsible for collecting various fees, fines, and penalties, and she made the following observations:

- The Office collected filing fees through the Commercial Recordings Division, broker and dealer license fees through the Securities Division, and candidate filing fees through the Elections Division.
- The Office collected, tracked, and monitored revenue for over 40 different funding sources.
- The majority of revenue collected supported the State General Fund. For example, in fiscal year (FY) 2014, \$166.7 million of the \$167.3 million collected, or 99.6 percent went to the General Fund, and the remainder supported the various accounts in the Office.
- The Commercial Recordings Division was the largest General Fund revenue generator in the Office at 83 percent, or \$138.4 million, and the Securities Division generated 15.6 percent, or \$25.9 million. The remaining revenue streams contributed 1.4 percent: Uniform Commercial Code fees, \$1.7 million; the Notary Division, \$544,000; and the Elections Division, \$92,200.
- Over the past nine years, revenue collection had trended upward with the highest collection total occurring in FY 2014.
- The increase in General Fund revenue collected between FY 2009 and FY 2011 could be attributed to the state business licensing being moved to the SOS Office and the \$100 increase in the state business license fee.
- With the proposed move of the revised state business license fee from the SOS Office to the Department of Taxation, as recommended by the Governor, the total General Fund revenue collected by the Office would be significantly decreased.

Ms. Cegavske emphasized that the SOS Office had been a net General Fund revenue generator by a large margin and had played a critical role in the state's total General Fund budget. The General Fund revenue collected per position had increased to \$1.3 million. Ms. Cegavske noted that the number of FTEs had decreased since FY 2006 because of budget cuts, and resources had been reallocated.

Ms. Cegavske indicated that there were two primary budget accounts for the SOS Office. Budget account (BA) 1050 contained the general operating budget of the Office of the Secretary of State, primarily funded by the General Fund. Other minor sources included federal Electronic Absentee System for Elections

(EASE) grant funds, domestic partnership registration fees, living will lockbox donations, securities fines and penalties, and miscellaneous program fees.

Ms. Cegavske reported that the second major budget account for the Office of the Secretary of the State was BA 1051, the Help America Vote Act (HAVA), which Congress passed in 2002 in response to irregularities that occurred in the 2000 Presidential election. She explained that to achieve the goals of HAVA, the federal government allocated grant money to assist the states with start-up and maintenance for compliance with the HAVA provisions. Regarding the allowable use of HAVA funds, she indicated that the provisions included:

- Development of a statewide voter registration system.
- Replacement of punch card voting equipment.
- Voter education.
- Provisional balloting.
- Voter accessibility for persons with disabilities.

To date, Nevada had received approximately \$23 million in federal funds and the most recent payment occurred in FY 2013. Of the \$23 million, Ms. Cegavske reported that \$2 million remained, and the SOS had been waiting to hear whether Congress might provide new funding to meet the HAVA requirements. However, she said that the Office was not optimistic that there would be any payments in the future. She noted that most states had completely spent their HAVA funds; Nevada had been frugal, and there should be sufficient funds in the HAVA account to last through the upcoming biennium. Because it was unlikely that Congress would continue this funding, she anticipated that the two positions would be transferred to BA 1050 in the 2017-2019 biennium.

Ms. Cegavske reviewed the decision units and dollar amounts for the 2015-2017 biennium in budget account 1050, as outlined in the chart below:

2015-2017 Biennium Budget Request			
Decision Type	FY 2016	FY 2017	2015-2017 Biennium
Base	\$ 14,607,444	\$ 14,245,507	\$ 28,852,951
Maintenance	\$ (48,210)	\$ (113,396)	\$ (161,606)
Enhancement	\$ 5,239,481	\$ 8,898,337	\$ 14,137,818
Total	\$ 19,798,715	\$ 23,030,448	\$ 42,829,163

The budget request had been divided into major and minor Enhancement (E) requests, and the major requests included:

- Decision unit E-550 was a technology investment request (TIR), which would replace the electronic Secretary of State, or eSoS, application and included system software and related hardware. The eSoS, which was the primary application for the SOS Office used for processing, archiving, and receiving Commercial Recordings Division business filings, was over 10 years old and supported revenue collections of over \$140 million annually. Ms. Cegavske said that when eSoS was first launched, it was widely acclaimed for its functionality. However, the application was now considered antiquated and increasingly difficult to maintain, portions of the system software were no longer available or supported by the vendor, and work stoppages occurred frequently because of system failure. In addition, the entire system had been operating below the current technology processing standards. Locating and hiring technical staff with the skill sets to support the antiquated technology was a challenge.

The estimated cost to replace the system was \$21.9 million over five years. For the 2015-2017 biennium, the SOS Office would be requesting \$11,787,200, which excluded the TIR-related positions requested in E-231. The TIR had gone through the review process by the Division of Enterprise Information Technology Services (EITS), Department of Administration, and the Information Technology Advisory Board and had been approved for inclusion in The Executive Budget.

Ms. Cegavske indicated the majority of the request would support a vendor to perform an analysis of the current system and develop a replacement eSoS.

- Decision unit E-231 requested \$327,372 over the biennium for three new information technology professional positions. Since the eSoS rewrite would require additional resources, the new positions would assist in modernizing and updating the platform, which would be critical for processing customer business filings.

The goal of the TIR was to provide a modern application to promote and enable increased self-service and the flexibility to meet customer and business needs. In addition, the new eSoS application would be required to meet all of the state requirements for maintaining security and sustainability.

- Decision units E-234 and E-235 were related to the state business portal, SilverFlume. Ms. Cegavske reported that the SOS Office would be requesting \$212,432 in General Funds over the biennium for two new

full-time IT professional positions to support the continued growth of the portal.

Since SilverFlume launched in 2012, the features that were offered had expanded substantially, which required additional development and support. When the portal launched, there were 11 functions supported. However, as of the start of FY 2015, 32 functions were deployed either in development or in the queue. Because of the increased demand and service requests from the business community, the Business Portal Division wanted to increase the functionality of SilverFlume in the upcoming biennium.

- Decision unit E-232 requested reserve funding of \$228,968 over the biennium for two compliance investigator positions for the Securities Division, with one compliance investigator based in Las Vegas and the other based in Reno.

Ms. Cegavske recalled that during the 2009 Legislative Session, four compliance positions were eliminated because of budget reductions. However, since that time, changes in federal law had resulted in increased regulatory responsibilities in enforcement, which necessitated additional FTE positions.

In June 2012, the Securities Division was granted jurisdiction over mid-sized investment advisor firms because of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

- Decision unit E-225 requested \$393,533 over the biennium for discount fees paid by the SOS Office to financial service companies, such as Visa and MasterCard, for processing credit and debit transactions. Historically, this area of the budget had consistently been short on an annual basis and would need to be made whole with reductions elsewhere. As more customers were using online services provided by the Office, the amount of discount fees would continue to increase. Dating back to FY 1998, credit card discount fees had increased in each year and were expected to increase again in the upcoming biennium.

Ms. Cegavske explained the minor budget enhancements:

- Decision unit E-226 requested \$5,108 each year of the biennium for in-state travel related to document preparation service compliance visits. Registration of document preparation services, pursuant to Assembly Bill 74 of the 77th Session (2013), was the newest program in the Secretary of State's Office. When the bill was passed, no funding

was allocated to operate the program. The funding would be used for staff to make compliance visits to document preparation service providers.

- Decision unit E-227 requested \$2,012 in each year for staff to attend an annual International Association of Commercial Administrators (IACA) conference. Attendance would allow the Office staff to monitor national and international business filing practices and learn what competitor states would be doing in their respective jurisdictions.
- Decision unit E-237 requested reserve funds of \$500 in each year of the biennium for an online research program that would be used by the Securities Division to locate and research connections between individual businesses and their assets.
- Decision unit E-710 requested funding of \$1,389,944 over the biennium for replacement equipment, including desktop computers, laptops, docking stations, printers, servers, scanners and office chairs. The request for replacement equipment was based on Division of Enterprise Information Technology Services' suggested replacement schedules.
- Decision unit E-720 requested funding of \$297,814 over the biennium for new equipment, including software license renewals, upgraded storage area network devices, and a shredder.

Ms. Cegavske stated that the SOS Office also had two budget reduction proposals:

- Decision unit E-600 would eliminate a vacant administrative assistant position that was no longer needed, providing General Fund savings of \$96,245 over the biennium.
- Decision unit E-601 would decrease funding of \$79,338 over the biennium in specialized training that occurred in the base year that was no longer required by the Office. The reduction would leave approximately \$45,000 in each fiscal year for training.

In summary, Ms. Cegavske said that Enhancement decision units for BA 1050 would total \$14.5 million over the biennium, of which about \$14.2 million would be funded by the General Fund.

Assemblywoman Carlton asked why the discount credit card fees could not be passed on to the customer. She asked that the Secretary of State assist with



addressing the issue, since there was over \$1 million increase in BA 1050 for credit card fees over the legislatively approved budget in the 2013-2015 biennium.

Ms. Cegavske replied that the SOS Office would be more than happy to work with the Legislature to resolve the issue.

Assemblyman Armstrong recalled that Ms. Cegavske discussed increased functionality with the SilverFlume business portal. He asked whether any of the work was currently contracted out and whether the new information technology (IT) positions would overlap with the contracted positions.

Karen Michael, Business Portal Administrator, Office of the Secretary of State, replied that there were currently four full-time state employees working on the development of SilverFlume. Also, two master services agreement (MSA) developers assisted the SOS Office and provided off-hours monitoring, which was critical for coverage of holidays, weekends, off-hours, workload, and maintenance of a robust 24/7 platform.

Ms. Michael explained that the two full-time positions requested in the budget proposal would help support the current infrastructure and new business services. External vendors were engaged for system administration tasks, and for the cost of one full-time state position, there were two system administrators: an Oracle database administrator and a WebLogic administrator.

Assemblyman Armstrong asked what the increased business services would involve.

Ms. Michael responded that the SOS Office had been working with local and state agencies to determine when agencies were going to join the portal and to schedule accordingly. The City of Las Vegas and the Bureau of Health Care Quality and Compliance, Division of Public and Behavioral Health, Department of Health and Human Services, were scheduled to be part of SilverFlume within the next two months.

Ms. Michael stated that there were additional features of the business portal related to the business checklist, which were very important for economic development. The agencies scheduled later in the year included the City of Henderson and the Department of Employment, Training and Rehabilitation (DETR).

Ms. Michael explained that when a business accessed the business portal to operate in the state, the SOS Office provided the following checklist of information:

- Entity formation (type of business and basic information)
- State business license
- Workers' compensation compliance
- Department of Taxation eClearance letter
- Occupational safety and health training availability
- Nevada labor laws compliance
- Physical locations in the state

Ms. Michael indicated that the Secretary of State was trying to get the following local governments onboard: City of Fernley, City of Tonopah, City of Henderson, and the City of Las Vegas.

She advised that the business portal staff assisted businesses with the type of regulatory permitting or licensing required. It was necessary to look at the type of business, the industry, the number of employees, and location to determine the needs of each business.

Assemblywoman Dickman agreed with Assemblywoman Carlton regarding the discount credit card fees being passed through to the customer. However, she said that fees were charged when she paid her property taxes and Internal Revenue Service (IRS) charges, so the matter should be reviewed. Assemblywoman Dickman asked if the business license fees were transferred to the Department of Taxation, how the Office of the Secretary of State's budget would be reduced.

Scott Anderson, Chief Deputy Secretary of State, Office of the Secretary of State, advised that he was involved when the SOS Office took over the state business license function in 2009. He explained that if the business license process was moved from the SOS Office, approximately \$70 million in fees would then go to the Department of Taxation, and the revenue generated in the SOS Office would be affected. When the transition occurred in 2009, there were no new processing staff to complete the task, and the SOS Office had integrated the state business license process into the annual list filing processes that were already in place. Therefore, the costs of the transition were absorbed by the SOS Office.

Mr. Anderson said that because the annual filing functions would still remain in place even with a reduction of revenue, the SOS Office would not be able to reduce staff. Currently, the SOS Office processed the annual list filings,

collected a fee, updated the database, and provided the state business license to the customer. From a revenue standpoint, he stated that there would be a significant reduction in the \$140 million in revenue received through the Commercial Recordings Division.

Regarding Assemblywoman Carlton's question concerning credit card fees, Ms. Cegavske added that there was a provision in *Nevada Revised Statutes* (NRS) that could prohibit the SOS Office from collecting the credit card fees. She indicated that the previous Secretary of State was concerned about losing the online transactions, which could decrease revenue.

Because there had been an effort to bring local governments onto SilverFlume, Assemblywoman Kirkpatrick asked whether the two IT positions would assist in this process.

Ms. Michael responded that Senate Bill 59 was removing the language for mandatory participation.

Assemblywoman Kirkpatrick asked why the mandatory participation language was being removed. She said that the language was needed to ensure the participation of local governments.

Ms. Michael clarified that S.B. 59 was a management initiative that required changes to current business processes and technologies.

Assemblywoman Kirkpatrick stated that she would not support the removal of the mandated language.

Ms. Michael reported that the local governments were beginning to come to the table and put forth ideas on how the local government processes might work in conjunction with the processes of the SOS Office. As the Office reviewed the requirements and the difficult sequence of the processes that businesses had to follow, the two full-time positions would help to develop the different paths for the businesses.

Regarding the transfer of the business license function from the SOS Office to the Department of Taxation, Assemblywoman Kirkpatrick asked whether the Department of Taxation would need additional staff. She asked whether the problem was working with the IRS, through the memorandum of understanding (MOU), to ensure that businesses would be in compliance with both the IRS and the state. She questioned whether there would be a way the information could be shared between the SOS Office and the Department of Taxation, because the state was trying to develop a streamlined system.

Mr. Anderson advised that when the IRS needed information, the state would provide it. He understood that the Department of Taxation had a different agreement with the IRS, and there was a free flow of information to and from the agencies. Through SilverFlume, there would still be interaction and common information between the Department of Taxation and the SOS Office, and the information would be accessible to the IRS and other agencies. Mr. Anderson advised that the SOS Office would want to integrate, not only with other agencies and jurisdictions, but also with the federal regulating agencies, such as the IRS and law enforcement agencies.

Assemblywoman Kirkpatrick advised that the Department of Taxation would be asking for additional staff to enable the Department to process state business license functions, and that it would be better to hire three full-time employees to act as liaisons who could work between the two agencies to share information. She would be interested in reviewing the program and determining what refinements could be made. Consequently, if the business license process were returned to the Department of Taxation, then the business process would need to be restarted.

Depending on the outcome of the revenue package, Mr. Anderson responded that through SilverFlume, the transition for the customers could be seamless. He advised that the SOS Office would be willing to participate and be part of the solution.

Ms. Cegavske affirmed that the Office of the Secretary of State would work with Assemblywoman Kirkpatrick and do whatever needed to be done to help the state. One of the concerns would be the graduated fees and the staff required to complete the process. She understood that it would take approximately 32 full-time employees to assist the Department of Taxation through the graduated fees process.

Assemblyman Sprinkle asked whether the three positions included in the Technology Investment Request (TIR) were necessary for the upgrade, whether the positions would be continued, and what the positions' duties would be. He said that he would like more information about why the positions were necessary, as opposed to the contract work that the SOS Office would need to bring the system online.

Bart London, Information Technology Manager, Office of the Secretary of State, advised that the first position would be hired on about midyear of FY 2016 and would assist with the selection of the vendors, conduct the request for proposal process, and become familiar with the existing environment.

Mr. London advised that in FY 2017, the other two positions would be hired while the project ramped up and as more resources would be needed. Two positions would be responsible for acquiring the technical knowledge, understanding the environment, working with the vendor, and eventually taking over the more common features, such as upgrades.

Assemblyman Sprinkle was concerned that the first position mentioned would be assisting with the initial process. Once everything was up and running, he asked whether the position would be taking on additional roles.

Mr. London responded that there would be a transition, and there would be a small amount of funding allocated on an annual basis for vendor support. He advised that the tools being used were very advanced, and the software being used and upgraded was very complex. The three positions would cover the broad scope of the applications in support of the Commercial Recordings Division. He explained that the three positions would not be able to retain all of the knowledge or have all of the skills. Initially, there would be a vendor to support the Office, but the first position would understand the technology, select the vendor, and work with the vendor and additional staff.

Assemblyman Sprinkle asked whether the three positions would be necessary in the future or just for the upgrade.

Mr. London replied that there was a vendor that fully supported the application from development to production. In 2012, the SOS Office had not renewed the contract with the vendor, Northrop Grumman Corporation. In that time, the staff had to quickly take on all of the skills and functions of the system and was provided the ability to upgrade and make changes. The state still owned the system and the vendor had not been replaced. He added that there was still a broad gap in the technology that had to be filled, and the new positions would do that as well.

Assemblyman Sprinkle asked whether the two positions in the Securities Division would be funded from reserves. He asked how the reserves for the SOS Office would be affected and what process would be put in place to build the reserves back up.

Mr. Anderson replied that the positions were necessary because of increased responsibilities when the Securities Division was required to investigate medium-sized investment firms, which expanded the number of investigations that the Division would be required to perform on an annual basis. Mr. Anderson stated that the reserve fund had consisted of fines and penalties, and historically those fines and penalties had been used to support the

positions. He said that the Office expected that the reserve would build back up from the miscellaneous fines and penalties received to cover those costs into the future.

Assemblyman Sprinkle remarked that if the positions were permanent, they should be funded permanently and not be reliant upon reserves.

Assemblywoman Bustamante Adams asked how long it would take to complete a compliance audit and whether the current wait-time would be reduced.

Mr. Anderson responded that he did not have that information. In the past year, the Securities Division had contracted with a third party to assist with reducing the backlog, and the two positions would allow the SOS Office to move forward with the increased workload, while not allowing the backlog to increase.

Assemblywoman Bustamante Adams noted that the backlog was 200, and with the two new positions, the number would be reduced by 100. She indicated that she would appreciate more information.

Mr. Anderson replied that he would get the information and estimated a revenue increase because the dealers, brokers, and the investment advisors would be charged for the inspections. He said that the additional revenue might offset the cost of the new positions.

Regarding SilverFlume, Assemblywoman Bustamante Adams requested a list of which local governments did not want to participate. She echoed Assemblywoman Kirkpatrick's concerns regarding mandatory participation.

Ms. Michael responded that ten local governments had signed the intrastate interlocal agreement. Examples of the local governments that had not yet signed the agreement included: Elko County, City of Elko, and Humboldt County.

Ms. Michael explained that all of the counties were reviewing and discussing the intrastate interlocal agreement. Those local governments that had not yet signed the agreement had been informed that they would be asked to participate and sign the agreement. The SOS Office did not have a timeline for them to sign the agreement.

Mr. Anderson interjected that the problem was not that the local governments did not want to participate. Some entities had old technology systems and limited budget resources, which would not allow their participation in SilverFlume at this time. He said that as the economic circumstances improved

and systems were upgraded, the counties would be better equipped to participate in SilverFlume. In addition, Mr. Anderson suggested that part of the struggle would be to educate the counties and the municipalities about the services of the SOS Office. He noted that SilverFlume would not necessarily need upgraded infrastructure for the Office to provide assistance to the counties. There were services that could be provided to the counties without significant investment, and the Secretary of State's Office would be working with them. Mr. Anderson added that there had been some positive discussions recently, and there might be significantly more entities signing the agreement without the mandatory participation.

Assemblywoman Bustamante Adams requested an updated list of the ten entities that had signed the agreement.

Ms. Michael responded that on the homepage of SilverFlume, there was a link labeled "Agency Partners," which provided a full list of all state, local, and regulatory partners.

Chair Anderson asked whether the list included local governments other than cities and counties, such as water districts.

Ms. Michael replied that there had been no discussion regarding the specialized governmental agencies. There were some restrictions on the common business registration information that would be beyond the Commercial Recordings Division public record. Regarding the contract with business customers that used SilverFlume, the SOS Office would share the information with governmental agencies. She was not sure about the status of the specialized local government agencies.

Chair Anderson asked whether participation by specialized local government agencies had a statutory limitation and if the Legislature could expand it further.

Mr. Anderson replied that the focus was to get state agencies, counties, and cities to participate, and the specialized local government agencies had not been a focus. While moving forward with SilverFlume, the SOS Office had to consider all aspects of governmental licensing, registration, and interaction with government agencies and local governments, including specialized local government agencies.

Chair Anderson stated that once the participation of state and local agencies was secured, discussion about specialized local government agencies would begin.

Mr. Anderson indicated that the participation of the state and local entities would be a victory for SilverFlume.

Chair Anderson remarked that priorities tended to get pushed to the top when things were mandated, and those items that were not mandated would drop further down. Sometimes when the mandates were implemented, priorities might change quickly.

Ms. Cegavske responded that the Secretary of State's Office tried to work with all parties regarding Senate Bill (S.B.) 59. She was hopeful the bill would not be included with the mandatory participation language, but she said that her Office would work with the Legislature toward whatever was best for the state.

Ms. Cegavske said that several local governments were concerned about costs and mandated participation was making them uneasy about S.B. 59.

Chair Anderson indicated that there would need to be further discussion, and if significant partners came forward, the Committee could determine how to move forward.

Assemblywoman Benitez-Thompson said she wanted to revisit the offset in vendor costs with the increase in full-time-equivalent (FTE) IT position costs. She expected that with the increase in positions in the budget, there would be a reduction in outside contracts and vendor support. She recalled that there had been discussion regarding justification and duties for the positions, but she had not heard mention of an offset in costs for vendor contracts.

Mr. Anderson explained that there would be a combination of duties required from the vendor and IT positions to properly support the new systems, SilverFlume and eSoS.

Mr. Anderson reiterated that the SOS Office could ask for additional positions beyond its proposed budget request. However, the proposed budget request would be necessary for the Office to properly maintain the system with staff and contractors. He speculated that the contracts would expire, and the internal staff would take over maintenance of the system. If there was an offset, he stressed that the Office would find it.

Assemblywoman Benitez-Thompson stated that in her experience with contracts with state government, they did not expire, and in fact vendors came back and wanted contracts to be renewed at higher levels with more needs and more enhancements, especially those related to information technology. There were



contracts that had to be cancelled because of lack of funding, but no vendor had voluntarily come forward to not extend a contract.

Regarding the Notary Public Training Account that was not part of The Executive Budget, Assemblywoman Benitez-Thompson noted that prior to March 1, 2014, *Nevada Revised Statutes* (NRS) 240.018 provided that the notary public training fees collected were split, with 75 percent deposited in the General Fund and 25 percent in the training account. She noted the disposition of the fees had changed and asked whether the change affected the SOS Office's support from the General Fund.

Wayne Thorley, Deputy for Operations, Office of the Secretary of State, responded that with the change that occurred in March 2014, any fees collected for training, which was \$45 per person per class, would be used to pay the expenses of operating the notary program. Any funds collected in excess of the expenses at the end of a fiscal year would be deposited into the General Fund. Therefore, Mr. Thorley explained, the account would not grow as it had in the past when the fees were split.

Assemblywoman Benitez-Thompson asked what the amount deposited in the General Fund was in FY 2014.

Mr. Thorley explained that the first deposit would have occurred at the end of FY 2014 after the statute took effect. He did not know the amount, but he would report the information to the Committee.

Assemblywoman Benitez-Thompson noted that there was an increase in the request for out-of-state travel, and she asked for the amount of the base travel allotment.

Mr. Thorley replied that there was funding for two positions to travel to the International Association of Commercial Administrators (IACA) conference. This request would add funding for one additional position to attend.

Assemblywoman Benitez-Thompson asked whether the out-of-state travel budget consisted of three positions attending one conference, and she asked whether the addition of \$2,012 was above the base budget.

Mr. Thorley agreed the enhancement was \$2,012 in each year of the biennium, and he noted that there was a base budget request of \$11,233 in out-of-state travel for each year of the upcoming biennium.

Assemblywoman Benitez-Thompson asked whether the SOS Office had applied for a scholarship for the conference scheduled in May.

Mr. Anderson replied the Office had applied for the scholarships, but it was uncertain whether the scholarships would continue. The SOS Office would like to provide payment of travel costs without the continued need to accept scholarships every session. He advised that the SOS Office had applied for and received scholarships for the last five conferences, but it might not receive scholarships in the future because those funds were limited.

Assemblywoman Benitez-Thompson asked how the funds would be used if the scholarships were granted.

Mr. Anderson answered that the proposed funding could be used for other out-of-state travel.

Regarding the proposal recommended by the Governor to transfer the state business licensing function to the Department of Taxation, Assemblywoman Benitez-Thompson asked whether the Secretary of State's Office had made an offset in its budget to accommodate the transfer of staff since the budget included duplicate staff in the SOS Office and the Department of Taxation.

Mr. Anderson replied that no new positions were requested with the transfer to the Department of Taxation; the transfer was melded into the current processes.

Assemblywoman Benitez-Thompson asked whether there was a reduction in staff in the SOS Office because of the transfer.

Mr. Anderson answered that the proposed budget did not reflect a reduction in staff because of the transfer to the Department of Taxation. The processes in the Office of the Secretary of State would remain the same. The SOS staff did not work specifically on the state business license process, but worked on other processes in the office as well.

Ms. Cegavske explained that the Department of Taxation was deemed to be the more appropriate agency because calculation of fees and/or gross income on a sliding scale, which might result in multiple layers of taxes, would be beyond the purview of the Secretary of State's Office. The SOS Office simply calculated the \$125 annual filing fee and the \$200 business license fee to register a business.

Chair Anderson clarified that the business license fee was simply a line item in the calculation, and that staff would not be calculating complex business license fees. There would be a check box to determine the cost of the annual filing and state business license fee, and no further staff would be required.

Regarding the Securities Division backlog, Assemblywoman Bustamante Adams asked for the current status of the backlog and how Nevadans would benefit from reducing the backlog.

Diana Foley, Securities Administrator, Office of the Secretary of State, replied that in 2014, there were 214 open cases, which included inspections and investigations. The intent was that the three current compliance/audit investigator positions would be able to complete 25 inspections per year and the two new ones slightly fewer. She stated that the new positions in the compliance/audit unit would be able to complete 40 to 50 inspections per year, as well as work on investigations. The workload should be down to a manageable level within two years. She said that it was difficult to state an exact number for the backlog because part of the backlog included investigations, which were of varying complexity and covered different issues.

Assemblywoman Bustamante Adams said she understood the number would be hard to estimate, but there would be an increase in the service to Nevadans.

Ms. Foley agreed, adding that the compliance/audit investigator would perform the inspections, which was a proactive attempt to make sure that the licensees were in compliance with the law.

Regarding the business license fee transfer to the Department of Taxation, Chair Anderson asked whether changes to the eSoS application would require additional programming.

Mr. Anderson advised that the internal IT staff would be able to handle the workload. While moving forward with the technology investment request (TIR), he said that the eSoS would be built into the new system depending on the status of the business license function. He said that modifications would be required, but the process had been simplified and the SOS Office should be able to absorb that function with current resources and make the necessary changes to transfer that unit as part of eSoS to another division.

Chair Anderson asked whether there was a need to change the request in the budget if the business license function did or did not transfer from the eSoS program to the Department of Taxation.

Mr. Anderson replied that there would need to be further discussion with the IT staff in the SOS Office. If a problem were to arise out of the transfer and more funding was needed, the item would be brought to the Legislature immediately.

**ELECTED OFFICIALS**

**ELECTED OFFICIALS**

**SOS - HAVA ELECTION REFORM (101-1051)**

**BUDGET PAGE ELECTED-170**

Barbara K. Cegavske, Secretary of State, Office of the Secretary of State, explained that budget account (BA) 1051, Help America Vote Act (HAVA), had a balance of approximately \$2 million, and additional HAVA funding from the federal government was not anticipated in the near future. The budget for the 2015-2017 biennium would not include any additional federal HAVA funding. Ms. Cegavske noted that the HAVA base budget should continue to include the \$100 State General Fund appropriation each fiscal year of the biennium, so if federal HAVA funds were appropriated to the state in the future, the Interim Finance Committee (IFC) could approve funds from the Contingency Account to be used for a state match, if necessary.

Ms. Cegavske advised that decision unit Enhancement (E) 229 requested HAVA reserve funding of \$51,036 in fiscal year (FY) 2017 for a data-matching initiative for the statewide voter registration list before the 2016 general election. The SOS Office would work with the national Electronic Registration Information Center (ERIC), and through record comparisons with the Department of Motor Vehicles (DMV), the State Registrar of Vital Statistics, the Division of Public and Behavioral Health, Department of Health and Human Services, and other voter registration information, duplicate and invalid voter registration records could be identified and resolved, and outreach to potential eligible but unregistered voters could be undertaken. The proposed budget included funding for the Office to invest in the information technology services necessary to improve infrastructure and provide more efficient services to customers and the public.

Chair Anderson inquired about the status of the HAVA program and what would happen to the two positions assigned to the program if federal funding were to terminate.

Ms. Cegavske replied that there was approximately \$2 million remaining in HAVA funds, which would take the SOS Office through the next biennium. She stated that after the 2016-2017 biennium, the Office would request that the two positions become permanent.

If the positions were placed in permanent status and paid by the General Fund, Chair Anderson asked whether their duties would be different.

Ms. Cegavske explained that the SOS Office would still be required to fulfill all of the requirements of HAVA, which the two positions would be assigned to do.

Chair Anderson asked when the two HAVA positions were created and whether the federal government was expected to continue to fund the positions or if the program would sunset.

Scott Gilles, Deputy for Elections, Office of the Secretary of State, stated that the HAVA positions started approximately in 2003, when the federal funds were provided. About four years ago, it was made clear that Congress would not provide additional funding in lump sums to the states for HAVA programs. He said that there would be an additional lump sum to the states only if there were an additional federal mandate, which he speculated could be requirements for online voter registration or statewide voter registration lists that would communicate with each other.

Mr. Gilles reiterated that additional HAVA funding would not be provided to the states, and therefore, the proposed budget and staff would be funded through the 2016 general election and through the first six months of 2017. He said that the state would need to reconsider the funding mechanisms for the two HAVA positions and the current voting system that had been used in most of the state. The SOS Office was responsible for the payment of the licensing and maintenance of the system. He stated that those questions would have to be answered in the future.

Chair Anderson affirmed that the HAVA program was a federal mandate with federal funding and the mandates were still required, but the funding had expired. He pointed out that the burden would be with the state because there was a compliance component of the law.

Mr. Gilles replied that the Chair was correct. The two HAVA positions would ensure that the state met all of the federal requirements, but they would also play a crucial role in ensuring that the county clerks were doing their jobs correctly and following the law. He stressed that the HAVA Administrator was a crucial position for the Elections Division.

Ms. Cegavske recalled that Congress passed the Help America Vote Act in 2002 after the 2000 general election. The most recent funding was received in 2013, and there was no more federal funding anticipated.

Chair Anderson closed the hearing on the budget for the Office of the Secretary of State.

**ELECTED OFFICIALS**  
**ELECTED OFFICIALS**  
**COMMISSION ON ETHICS (101-1343)**  
**BUDGET PAGE ELECTED-245**

Chair Anderson opened the hearing on the budget for the Commission on Ethics.

Ms. Yvonne Nevarez-Goodson, Esq., Executive Director, Commission on Ethics, advised that she had served as Commission Counsel for the past five years and that she could provide insight into the budget, both past and present. She said that it was an honor to represent the Commission on Ethics because she had a lot of faith in the mission of the Commission and its goals to preserve public integrity and public trust in government.

Ms. Nevarez-Goodson stated that the Commission was part-time with voluntary service by its members, who volunteered their time to address the requests for opinions that came before the Commission. The Commission answered requests for advisory opinions on behalf of public employees and public officers, and addressed complaints received from the public. She noted that the members had many outside personal and professional responsibilities, and they committed a significant amount of their time on behalf of the Commission.

Ms. Nevarez-Goodson informed the Committee that the Commission on Ethics was both a quasi-legislative and quasi-judicial body of eight members: four were appointed by the Legislative Commission and four were appointed by the Governor. She advised that the Commission's jurisdiction extended to the state's public employees and public officers and included local governments.

Prior to the submission of the biennial budget, Ms. Nevarez-Goodson said the Commission conducted an evaluation of the number of cases that represented interests from the local governments. The Commission would be funded by the local governments for their caseloads, and the proposed budget represented 79 percent local government funding and 21 percent from the State General Fund.

Ms. Nevarez-Goodson emphasized that despite the joint branch appointment of the Commission, there was limited jurisdiction with respect to state legislators. The Commission did not have jurisdiction over state legislators with respect to

what might be deemed core legislative functions or what might otherwise be protected by legislative privilege and immunity.

Ms. Nevarez-Goodson explained that the Commission's scope of jurisdiction extended very broadly over the rest of the state's public employees and public officers, and the mission was broken down into four main functions, shown in [Exhibit D](#), the Commission's Budget Presentation.

- Interpreting and applying *Nevada Revised Statutes* (NRS) 281A, the Ethics in Government Law, and guiding public officers and employees regarding its provisions. The advisory request for opinion process, or first-party request for opinion, required the Commission to respond within a 60-day time frame, which included scheduling a hearing and issuing a written opinion. In cases that may be similar or have similar circumstances, the Executive Director could defer advisory opinions to cases that had previously received written opinions as related to NRS Chapter 281A. Because the Commission had been experiencing a significant backlog, the Legislature approved the associate counsel position. The position was critical to ensuring that the Commission reduced the backlog and produced written opinions in a timely manner.
- Investigating and adjudicating public complaints alleging ethics violations by public officers and employees. The third-party request for opinion process, or ethics complaint, could be considered to be more judicial in nature, which required a significant legal review through legal motions, and thus was an indicator of the Commission's large caseload.
- Providing outreach and education to public officers and employees to enhance their awareness and understanding of ethics requirements and prohibitions under Nevada law. Through outreach and education, the Commission was able to measure its effectiveness through customer service surveys and other feedback methods.
- Accepting and monitoring various filings required of certain public officers. The Commission was responsible for accepting and monitoring various filings that were required of the state's public officers and executives in the local governments.

Ms. Nevarez-Goodson summarized that the current budget request for the Commission on Ethics was responsible and reflected the last biennium's expenses and the increased work of the Commission and staff over the last biennium. Processes and procedures were improved and up to date, and opinions were being issued in a timely manner.

Ms. Nevarez-Goodson stated that the Commission had not been meeting as often as it had in the past. It formerly met every month and sometimes two days per month, and meetings were sometimes held in between via teleconference. She stressed that if possible, the Commission was trying not to meet every month, which was reflective of the additional work that had been acquired through the associate counsel position. In many instances, what used to be a requirement of the Commission had now been deferred to staff, which resulted in overall cost savings to the state and the Commission.

Ms. Nevarez-Goodson added that there were no budget reductions, but there were significant cost savings from fiscal year (FY) 2013 in the in-state travel budget and the court-reporting budget.

The Commission on Ethics' proposed budget enhancements included the following:

- Decision unit Enhancement (E) 225 requested a new category for the Commission for training. Because the Commission had statewide jurisdiction and a small staff of six members, and because of the uniqueness of the work and the topic, there was not another agency in the state that reflected on the same issues faced by the Commission relating to conflicts of interest. The Commission on Ethics was a member of the Council on Governmental Ethics Laws (COGEL), which reached all of the states in the country to address conflict-of-interest issues and abuses of government positions. The E-225 decision unit requested funds for one full-time professional staff member to travel to the annual conference for training.
- Decision unit E-226 requested cellular phone reimbursement for the staff. The Commission did not have a public access office in the Las Vegas area, but it did have a workspace in the Grant Sawyer State Office Building for Commission-related business. Furthermore, the Commission's investigative and counsel staff traveled throughout the state to not only conduct outreach and education, but also to address the requests for opinion from southern Nevada. Most of the business was completed outside of the Commission office and outside of the Commission's business hours, so the Commission was seeking appropriate cell phone reimbursement for staff members who spent much of their time out of the office.
- Decision unit E-711 requested a new telephone system in the Carson City office. The telephone system was quite outdated and a significant challenge for staff to use. The Commission was located in leased space



in a state-owned building in Carson City, and it had been determined that the most cost-efficient way to address the problem would be to purchase a new internal telephone system. The system would have a one-time cost of \$6,440, which was less expensive than joining the new statewide telephone system.

Assemblyman Hickey asked about the relationship between the Commission on Ethics and the Legislature, because the courts over the years had weighed in on the areas of the Commission's discretion.

Ms. Nevarez-Goodson responded that the Commission had limited jurisdiction over the functions of the state legislators. She stressed that, under the separation of powers doctrine in the *Constitution of the State of Nevada*, there was a provision that exempted oversight from other branches of government into the core legislative functions of state legislators. In 2009, the Commission on Ethics had a request for opinion regarding the alleged conduct of a legislator, and the question arose whether it was appropriate for the Commission to exercise jurisdiction over the alleged conduct or if the matter should more appropriately be handled by the Legislative Branch. The Nevada Supreme Court determined that it would not be appropriate, under separation of powers provisions, for the Commission to exercise jurisdiction over the conduct of state legislators with regard to core legislative functions. After the case was filed and ordered from the Nevada Supreme Court, the Legislature also codified principles of legislative privilege and immunity into *Nevada Revised Statutes* (NRS) Chapter 41 and also included those provisions in the Ethics in Government Law, NRS 281A, which also protected state legislators with respect to issues that might fall under the protections granted by legislative privilege and immunity. She advised that the Commission would still be available to state legislators for any questions about conflicts of interest.

Chair Anderson closed the hearing on the Commission on Ethics budget and opened the hearing for public comment. There was no public comment.

Chair Anderson adjourned the Committee meeting at 9:42 a.m.

RESPECTFULLY SUBMITTED:

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Karen Daly  
Committee Secretary

APPROVED BY:

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Assemblyman Paul Anderson, Chair

DATE: \_\_\_\_\_

**EXHIBITS**

**Committee Name:** Committee on Ways and Means

**Date:** February 5, 2015

**Time of Meeting:** 8:03 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Barbara K. Cegavske, Secretary of State	Budget Presentation
	D	Yvonne Nevarez-Goodson, Commission on Ethics	Budget Presentation