

STATE SECURITIES DEPARTMENT

Enabling Laws

Act 164 of 2012
A.C.A. §20-17-1001 et seq.
A.C.A. §23-35-101 et seq.
A.C.A. §23-38-101 et seq.
A.C.A. §23-39-501 et seq.
A.C.A. §23-42-101 et seq.
A.C.A. §23-55-101 et seq.

History and Organization

The Arkansas Securities Department has legislated responsibilities to protect the monetary interests of Arkansas residents by providing administration, regulation, and enforcement of the various Acts.

Act 254 of 1959 placed responsibility for the "sale of securities" under the jurisdiction of the State Bank Department, and provided for a State Securities Commissioner. The Securities Commissioner was to be appointed by the Governor and subject to the supervision of the State Bank Commissioner, and the Securities Department was operated as a division of the State Bank Department. Act 38 of 1971 transferred both the State Bank Department and the State Securities Department to the Department of Commerce. Each division continued to function independently of the Commerce Department with regard to the prescribed statutory powers, authorities, duties, and rulemaking responsibilities they had prior to the transfer. Act 471 of 1973 amended Act 254 of 1959 to provide that the Securities Division was no longer a part of the State Bank Department and the Securities Commissioner was no longer subject to the supervision of the State Bank Commissioner. The Act further provided that the Securities Division be renamed the Arkansas Securities Department and that all Acts previously regulated by the Securities Division be transferred to the new agency effective July 1, 1973.

In early 1975 it became apparent that the special revenue fund balances transferred to the Department by the Bank Department pursuant to Act 471 of 1973 would not be sufficient to continue operation of the Department at its then current level. Act 863 of 1975 amended all Acts administered by the Department to reclassify all revenues received by the Department as general revenues. Thus, effective July 1, 1975, the Department ceased being a special revenue agency and became a general revenue agency with all expenditures paid from the general revenues of the State.

Act 691 of 1983 abolished the Department of Commerce. Section 3 of the Act directed that the State Securities Department shall function as an independent agency. The Securities Commissioner is appointed by the Governor and serves at the pleasure of the Governor.

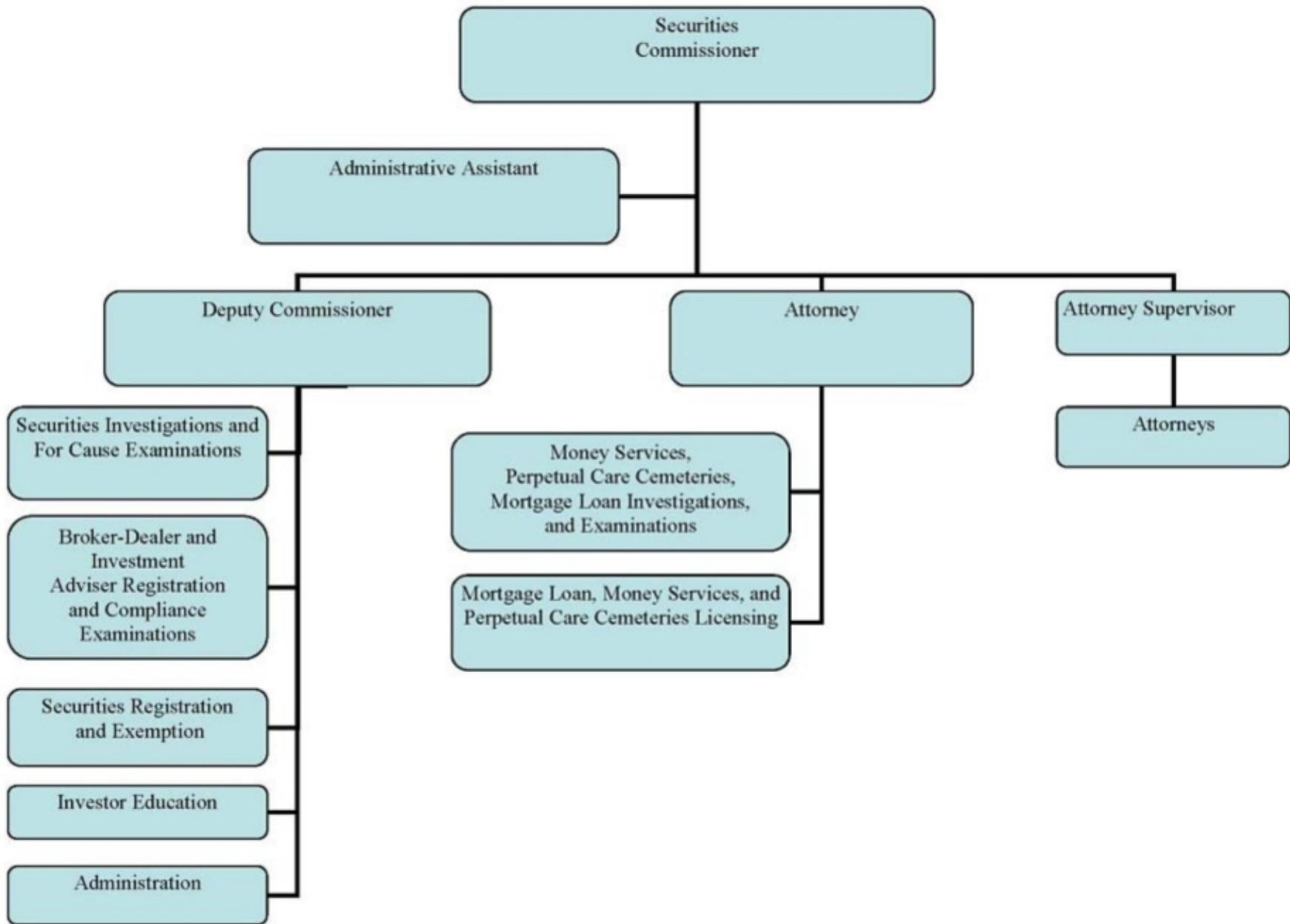
Act 42 of the First Extraordinary Session of 1989 appropriated funds to the Arkansas Securities Department, up to a maximum of \$200,000 in each fiscal year, to be used to contract for legal, accounting, and other appropriate assistance in addition to that available from the Department's regular staff, in specific cases and situations as deemed necessary by the Securities Commissioner. Act 207 of 1993 provided that all revenues received from administrative fines shall be deposited into the fund account from which the Arkansas Securities Department receives its maintenance and support as special revenues and used only for the stated purposes. Act 66 of 1997 provides in the event specific cases, situations, or programs make it necessary that the State Securities Department receives additional appropriations to carry out the objectives of the agency, the Securities Commissioner is hereby authorized to request the approval of the Governor and the Chief Fiscal Officer of the State for transfer of the appropriations provided in the Contingency line item (\$200,000). In no event shall the transfer in any fiscal year exceed the appropriations provided in the Contingency line item. The Governor may approve or modify such request for transfer of appropriations as in his judgment he deems necessary, and shall inform the Chief Fiscal Officer of the State. Upon notification, the Chief Fiscal Officer of the State shall direct the State Auditor to process said transfer upon his books.

Act 659 of 1993 created on the books of the Chief Fiscal Officer of the State and those of the State Treasurer a fund to be known as the "Securities Department Fund". Such fund is to be used for the maintenance, operation, support and improvement of the State Securities Department in carrying out its functions, powers, and duties as set out by law and by rule and regulation not inconsistent with law. Filing fees for initial or renewal registration of agent of a broker-dealer and investment adviser were increased to Seventy-five (\$75), of which twenty-five dollars (\$25) shall be designated as special revenue and shall be deposited in the Securities Department Fund. Also, the filing fee for the filing of a registration statement was increased to a maximum filing fee of no more than two thousand dollars (\$2,000). Any portion of the fee in excess of one thousand (\$1,000) shall be designated as special revenues and shall be deposited in the Securities Department Fund.

The Securities Department's operating appropriation is funded from special revenues deposited with the State Treasurer in the Securities Department Fund. The Securities Department Fund consists of portions of certain filing fees received by the Securities Department. Act 759 of 2003 created the Investor Education Fund. The Investor Education Program is funded from administrative fines received by the Department. The fines deposited into the Investor Education Fund are limited to \$150,000 each fiscal year. Fines received in excess of \$150,000 are deposited into the Securities Department Fund. The remaining fees and funds received by the Securities Department are turned over to the State Treasurer as general revenues.

Pursuant to the Savings and Loan Association Act, Act 227 of 1963, as amended, the Securities Commissioner acts as the Supervisor of savings and loan associations. In 1997 the Savings and Loan Association Act was amended to do away with the Savings and Loan Association Board and transferred the Board's power and authority to the Savings and Loan Supervisor.

Pursuant to the Cemetery Act, Act 352 of 1977, as amended, the Securities Commissioner serves as a voting member of the Cemetery Board.



Agency Commentary

The Arkansas Securities Department is responsible for protecting the financial well being of Arkansas citizens and promoting an environment where the financial and capital markets function efficiently and without unnecessary regulatory impediments. The operations of the Department are funded from the receipt of fees collected by the Department. Change Level requests include the following items:

Regular Salaries: The Department is requesting one new position without increasing fees charged to registrants. The Department is requesting a Deputy Securities Commissioner position. The Department is discontinuing two unfilled administrative positions to minimize the financial impact to the Department's budget. After reorganizing the structure of the Department, the registration, examination, and enforcement of the securities industry and administrative functions of the Department are under the management of the current position of Securities Deputy Commissioner. The licensing, examination, and enforcement of the mortgage loan, money services, perpetual care cemeteries, state-chartered savings and loan associations, and state-chartered credit unions are under the management of a current position of an Attorney Specialist. The Attorney Specialist position must also work enforcement cases and perform other duties related to being an attorney representing the Department in legal matters. The Department is requesting a new position of Securities Deputy Commissioner to manage the licensing, examination, and enforcement of the mortgage loan, money services, perpetual care cemeteries, state-chartered savings and loan associations, and state-chartered credit unions sections. This will allow the Attorney Specialist to return to performing the duties related to being the attorney for the Department. The two Securities Deputy Commissioner positions would report directly to the Securities Commissioner.

Extra Help: The Department hires attorney and examiner interns to assist with investigations, registration, examinations, and legal research. The Department requests that the appropriation for extra help be increased by \$4,000 to a total of \$16,000 in each fiscal year to allow the Department to extend the time period worked by the interns.

Capital Outlay: The Department is requesting \$13,500 in Capital Outlay in each fiscal year for replacement of obsolete equipment, file servers and other technology equipment as set forth in the Department's Information Technology Plan.

Operating Expenses - Investor Education Program: The Department sponsor an investor education program for the public schools, civic groups, senior citizens, and state employees. The program holds town-hall meetings around the state in conjunction with other state agencies to speak to Arkansas citizens about how to protect their financial interests. The Department is requesting an increase of \$5,000 for postage, \$2,500 to pay for rent of facilities to hold the events, \$2,500 to pay for advertising the events, and \$5,000 for food for the participants in each fiscal year. Additionally, the program has a grant program for non-profit organizations and public schools. The grants allow the grantees the opportunity to purchase research materials and the necessary equipment to provide securities and investment education to teachers and students. The Department is requesting an increase of \$20,000 in each fiscal year to fund additional grants to qualified grantees. In fiscal year 2012, the Department received requests for \$194,000 in grants but was only able to grant \$50,000 to the qualified grantees. Operating expenses for the Investor Education Program would increase from \$71,000 to \$106,000 in each fiscal year.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
 AUDIT OF :
 STATE SECURITIES DEPARTMENT
 FOR THE YEAR ENDED JUNE 30, 2011

Findings

Recommendations

None

None

State Contracts Over \$25,000 Awarded To Minority Owned Businesses Fiscal Year 2012

None

Employment Summary

	Male	Female	Total	%
White Employees	12	21	33	92 %
Black Employees	2	1	3	8 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			3	8 %
Total Employees			36	100 %

Publications

A.C.A. 25-1-204

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution
		Governor	General Assembly		
None	None	N	N	0	None

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

Appropriation	2011-2012		2012-2013		2012-2013		2013-2014					2014-2015						
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
027 State Operations	3,066,413	40	3,093,893	38	3,479,649	40	3,243,618	38	3,348,475	39	3,348,475	39	3,244,474	38	3,349,331	39	3,349,331	39
1MV Investor Education	60,985	0	78,500	0	78,500	0	78,500	0	113,500	0	113,500	0	78,500	0	113,500	0	113,500	0
867 Refunds and Transfers	11,320	0	17,500,000	0	17,500,000	0	17,500,000	0	17,500,000	0	500,000	0	17,500,000	0	17,500,000	0	500,000	0
Total	3,138,718	40	20,672,393	38	21,058,149	40	20,822,118	38	20,961,975	39	3,961,975	39	20,822,974	38	20,962,831	39	3,962,831	39

Funding Sources		%		%		%		%		%		%		%		%	
Fund Balance	4000005	4,500,981	67.7	3,506,160	15.1	2,483,767	9.9	2,483,767	9.9	2,483,767	34.8	4,161,649	15.6	4,021,792	15.2	3,171,792	40.6
Special Revenue	4000030	2,132,577	32.1	2,150,000	9.3	5,000,000	20.0	5,000,000	20.0	4,150,000	58.2	5,000,000	18.8	5,000,000	18.9	4,150,000	53.1
Cash Fund	4000045	11,320	0.2	17,500,000	75.6	17,500,000	70.0	17,500,000	70.0	500,000	7.0	17,500,000	65.6	17,500,000	66.0	500,000	6.4
Total Funds		6,644,878	100.0	23,156,160	100.0	24,983,767	100.0	24,983,767	100.0	7,133,767	100.0	26,661,649	100.0	26,521,792	100.0	7,821,792	100.0
Excess Appropriation/(Funding)		(3,506,160)		(2,483,767)		(4,161,649)		(4,021,792)		(3,171,792)		(5,838,675)		(5,558,961)		(3,858,961)	
Grand Total		3,138,718		20,672,393		20,822,118		20,961,975		3,961,975		20,822,974		20,962,831		3,962,831	

Agency Position Usage Report

FY2010 - 2011						FY2011 - 2012						FY2012 - 2013					
Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused	Authorized in Act	Budgeted			Unbudgeted	% of Authorized Unused
	Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total			Filled	Unfilled	Total	Total	
38	37	1	38	0	2.63 %	40	36	3	39	1	10.00 %	40	36	4	40	0	10.00 %

Analysis of Budget Request

Appropriation: 027 - State Operations

Funding Sources: SDH - Securities Department Fund

The State Operations appropriation is funded by special revenue fees that are authorized by A.C.A. §19-6-475. Administrative fines collected by the Agency are also designated as special revenues. Base Level is \$3,243,618 for FY14 and \$3,244,474 for FY15, with 38 positions budgeted from a total authorization of 40.

Base Level Regular Salaries and Personal Services Matching include Career Service payments for eligible employees. Personal Services Matching also includes a \$20 increase in the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$410 per month. Base Level salaries and matching do not include appropriation for a Cost of Living Adjustment or Merit Pay Increases. The Base Level salary of the unclassified Director's position reflects the FY13 line item maximum.

In addition to Base Level, the Department is requesting changes that total \$104,857 each year. These are as follows:

- One new position is requested: A Securities Deputy Commissioner to assume jurisdiction over mortgage loan, money services, perpetual care cemeteries, and state-chartered savings and loan associations and credit unions to relieve an Attorney Specialist to return to enforcement cases and legal matters. Two unfilled administrative positions are being discontinued to offset part of the increase requested. Total salary and matching costs for this change are \$87,051 each year.
- An increase in Extra Help of \$4,000 each year, including \$306 in matching costs, is requested to extend the time worked by interns who assist with investigations, registrations, examinations, and legal research.
- Also requested is Capital Outlay of \$13,500 each year for upgrading and replacement of technology equipment as indicated in the Department's Information Technology Plan.

The Executive Recommendation provides for the Agency Request and also recommends that A.C.A. §19-6-475 and §23-42-211(a)(4) be amended to allow the Department to receive a maximum of \$4,000,000 each year from special revenue fees.

Appropriation Summary

Appropriation: 027 - State Operations

Funding Sources: SDH - Securities Department Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			2013-2014			2014-2015		
		2011-2012 Actual	2012-2013 Budget	2012-2013 Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	2,031,907	1,943,253	2,128,777	1,912,333	1,979,933	1,979,933	1,913,033	1,980,633	1,980,633
#Positions		40	38	40	38	39	39	38	39	39
Extra Help	5010001	11,278	12,000	12,000	12,000	16,000	16,000	12,000	16,000	16,000
#Extra Help		2	2	2	2	2	2	2	2	2
Personal Services Matching	5010003	598,562	613,496	613,728	607,641	627,398	627,398	607,797	627,554	627,554
Operating Expenses	5020002	387,202	447,160	447,160	447,160	447,160	447,160	447,160	447,160	447,160
Conference & Travel Expenses	5050009	20,374	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000
Professional Fees	5060010	0	14,484	14,484	14,484	14,484	14,484	14,484	14,484	14,484
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	6,850	13,500	13,500	0	13,500	13,500	0	13,500	13,500
Contingency	5130018	0	0	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Examination Travel	5900046	10,240	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Total		3,066,413	3,093,893	3,479,649	3,243,618	3,348,475	3,348,475	3,244,474	3,349,331	3,349,331
Funding Sources										
Fund Balance	4000005	3,966,334	2,879,912		1,786,019	1,786,019	1,786,019	3,392,401	3,287,544	2,437,544
Special Revenue	4000030	1,979,991	2,000,000		4,850,000	4,850,000	4,000,000	4,850,000	4,850,000	4,000,000
Total Funding		5,946,325	4,879,912		6,636,019	6,636,019	5,786,019	8,242,401	8,137,544	6,437,544
Excess Appropriation/(Funding)		(2,879,912)	(1,786,019)		(3,392,401)	(3,287,544)	(2,437,544)	(4,997,927)	(4,788,213)	(3,088,213)
Grand Total		3,066,413	3,093,893		3,243,618	3,348,475	3,348,475	3,244,474	3,349,331	3,349,331

Change Level by Appropriation

Appropriation: 027 - State Operations
Funding Sources: SDH - Securities Department Fund

Agency Request

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	3,243,618	38	3,243,618	100.0	3,244,474	38	3,244,474	100.0
C01	Existing Program	91,357	1	3,334,975	102.8	91,357	1	3,335,831	102.8
C08	Technology	13,500	0	3,348,475	103.2	13,500	0	3,349,331	103.2

Executive Recommendation

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	3,243,618	38	3,243,618	100.0	3,244,474	38	3,244,474	100.0
C01	Existing Program	91,357	1	3,334,975	102.8	91,357	1	3,335,831	102.8
C08	Technology	13,500	0	3,348,475	103.2	13,500	0	3,349,331	103.2

Justification

C01	The Department is requesting a new position of Deputy Securities Commissioner and discontinuing two unfilled administrative positions to minimize the financial impact to the Department's budget. This position would assume jurisdiction over mortgage loan, money services, perpetual care cemeteries, and state-chartered savings and loan associations and credit unions to relieve an Attorney Specialist to return to enforcement cases and legal matters. The Department is also requesting an additional \$4,000 in Extra Help appropriation to extend the attorney and examiner intern program.
C08	Capital Outlay of \$13,500 each year is requested for replacement of obsolete equipment, file servers, and other technology equipment as set forth in the Department's Information Technology Plan.

Analysis of Budget Request

Appropriation: 1MV - Investor Education

Funding Sources: SDH - Investor Education Fund

The Securities Department's Investor Education Program was established by Act 759 of 2003 (A.C.A. §23-42-213) and is funded by administrative fines levied by the Department. The Program is designed to work in conjunction with various non-profit economic education, religious, civic, and community groups to provide economic and financial education primarily to junior high through first year college students and senior citizen groups and to inform the investing public of investment schemes and unlawful, fraudulent conduct.

In addition to the Base Level of \$78,500 each year, the Agency is requesting an increase of \$35,000 each year in Operating Expenses to conduct more investor education programs around the State and to provide for additional grants to allow for the purchase of research and educational materials for teachers and students.

The Executive Recommendation provides for the Agency Request and also recommends that \$70,000 each year be reallocated from Operating Expenses to the Grants and Aid line item for proper accounting of disbursements of grants to schools and civic organizations for the purchase of research and educational materials.

Appropriation Summary

Appropriation: 1MV - Investor Education

Funding Sources: SDH - Investor Education Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2011-2012 Actual	2012-2013 Budget	2012-2013 Authorized	2013-2014			2014-2015		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses	5020002	53,863	71,000	71,000	71,000	106,000	36,000	71,000	106,000	36,000
Conference & Travel Expenses	5050009	0	0	0	0	0	0	0	0	0
Professional Fees	5060010	0	0	0	0	0	0	0	0	0
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Promotional Items	5090028	7,122	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500
Grants and Aid	5100004	0	0	0	0	0	70,000	0	0	70,000
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		60,985	78,500	78,500	78,500	113,500	113,500	78,500	113,500	113,500
Funding Sources										
Fund Balance	4000005	534,647	626,248		697,748	697,748	697,748	769,248	734,248	734,248
Special Revenue	4000030	152,586	150,000		150,000	150,000	150,000	150,000	150,000	150,000
Total Funding		687,233	776,248		847,748	847,748	847,748	919,248	884,248	884,248
Excess Appropriation/(Funding)		(626,248)	(697,748)		(769,248)	(734,248)	(734,248)	(840,748)	(770,748)	(770,748)
Grand Total		60,985	78,500		78,500	113,500	113,500	78,500	113,500	113,500

Change Level by Appropriation

Appropriation: 1MV - Investor Education
Funding Sources: SDH - Investor Education Fund

Agency Request

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	78,500	0	78,500	100.0	78,500	0	78,500	100.0
C01	Existing Program	35,000	0	113,500	144.6	35,000	0	113,500	144.6

Executive Recommendation

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	78,500	0	78,500	100.0	78,500	0	78,500	100.0
C01	Existing Program	35,000	0	113,500	144.6	35,000	0	113,500	144.6
C19	Executive Changes	0	0	113,500	144.6	0	0	113,500	144.6

Justification

C01	The Department is requesting an increase of \$15,000 in expenses for postage, rent of facilities, advertising, and food related to holding investor education programs throughout the state to protect the financial interest of Arkansas citizens. Additionally, the Department requests an increase of \$20,000 for the grant program for non-profit organizations and public schools. The grant program allows the grantees the opportunity to purchase research materials and the necessary equipment to provide securities and investor education to teachers and students.
C19	As recommended by the Department of Finance & Administration-Office of Accounting, the Executive Recommendation reallocates appropriation in the amount of \$70,000 each year from Operating Expenses to the Grants/Aids line item for proper accounting of disbursements made to schools and non-profit organizations to obtain materials for investor education courses.

Analysis of Budget Request

Appropriation: 867 - Refunds and Transfers

Funding Sources: * 153 - Securities Department - Cash in Bank

The Securities Department's Overpayments/Transfer to Treasury appropriation is a Cash in Treasury account that is used for transfer of fee collections to other State Treasury fund accounts after necessary refunds have been made.

The Department indicates that the current Base Level of \$17,500,000 each year will be sufficient to cover all transfers and refunds anticipated in the 2013-2015 Biennium. Accordingly, the Department is requesting Base Level for this program.

The Executive Recommendation provides for appropriation of \$500,000 each year and that this program be changed to a Cash in Bank account for refunds and reimbursements. Transfers to the Treasury do not appear as expenditures, so a larger amount of appropriation is not necessary. Expenditure of appropriation is contingent upon available funding.

Appropriation Summary

Appropriation: 867 - Refunds and Transfers

Funding Sources: * 153 - Securities Department - Cash in Bank

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			2013-2014			2014-2015		
		2011-2012 Actual	2012-2013 Budget	2012-2013 Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Refunds/Reimbursements	5110014	11,320	17,500,000	17,500,000	17,500,000	17,500,000	500,000	17,500,000	17,500,000	500,000
Total		11,320	17,500,000	17,500,000	17,500,000	17,500,000	500,000	17,500,000	17,500,000	500,000
Funding Sources										
Cash Fund	4000045	11,320	17,500,000		17,500,000	17,500,000	500,000	17,500,000	17,500,000	500,000
Total Funding		11,320	17,500,000		17,500,000	17,500,000	500,000	17,500,000	17,500,000	500,000
Excess Appropriation/(Funding)		0	0		0	0	0	0	0	0
Grand Total		11,320	17,500,000		17,500,000	17,500,000	500,000	17,500,000	17,500,000	500,000

* The Executive Recommendation provides for a change in this program to Cash in Bank and that transactions be limited to Refunds and Reimbursements.

Change Level by Appropriation

Appropriation: 867 - Refunds and Transfers
Funding Sources: * 153 - Securities Department - Cash in Bank

Agency Request

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	17,500,000	0	17,500,000	100.0	17,500,000	0	17,500,000	100.0

Executive Recommendation

Change Level		2013-2014	Pos	Cumulative	% of BL	2014-2015	Pos	Cumulative	% of BL
BL	Base Level	17,500,000	0	17,500,000	100.0	17,500,000	0	17,500,000	100.0
C19	Executive Changes	(17,000,000)	0	500,000	2.9	(17,000,000)	0	500,000	2.9

Justification

C19	The Executive Recommendation provides for reduction in appropriation to \$500,000 each year for the payment of refunds and reimbursements and a change in this program to a Cash-in-Bank account.
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