

STATE SECURITIES DEPARTMENT

Enabling Laws

Act 267 of 2016
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.
A.C.A. §23-37-101 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.

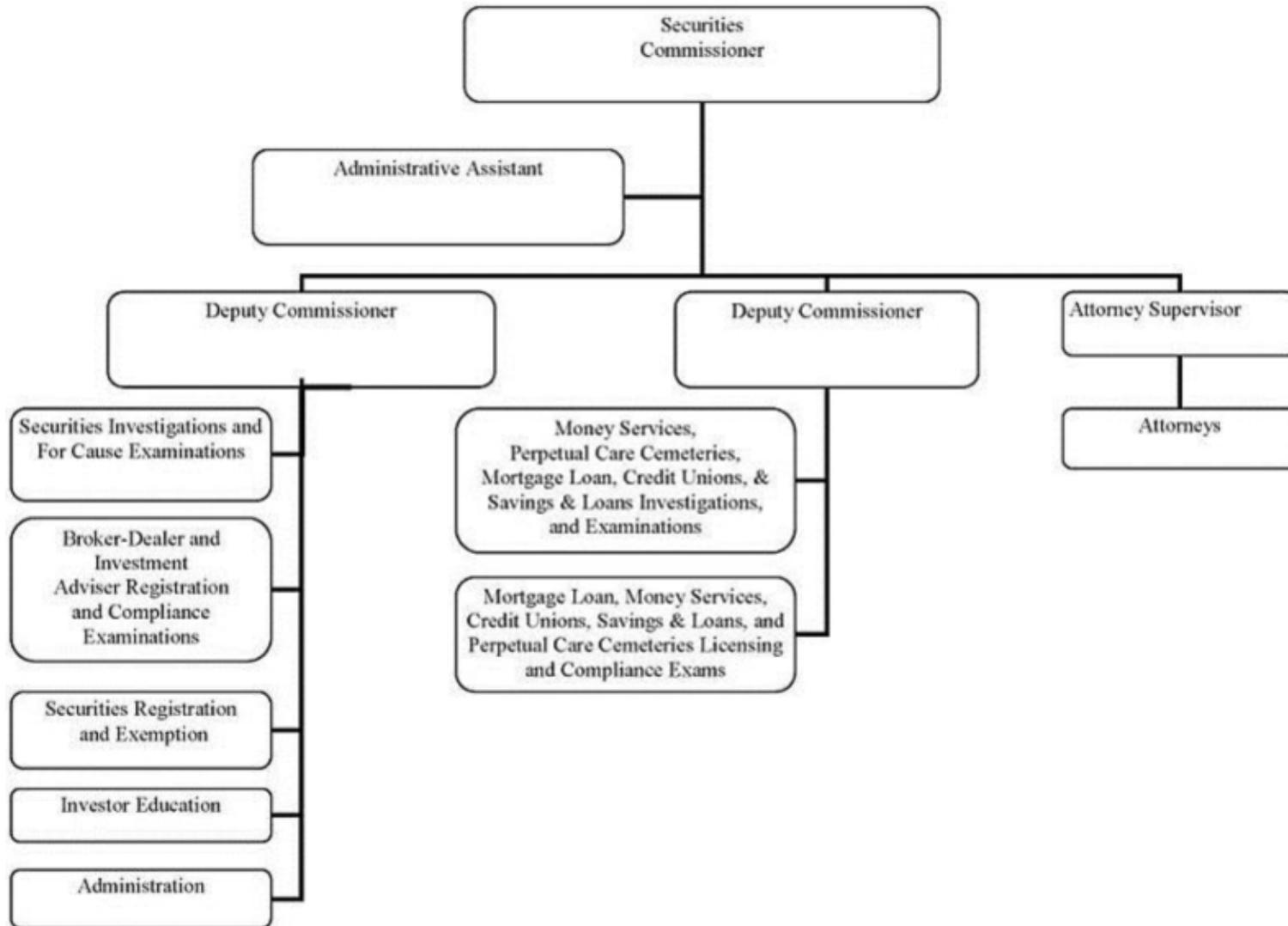
Act 42 of the First Extraordinary Session of 1989 appropriated funds to the Arkansas Securities Department, up to a maximum of \$200,000 in each fiscal year, to be used to contract for legal, accounting, and other appropriate assistance in addition to that available from the Department's regular staff, 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 dollars (\$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 dollars (\$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 Securities Department ("Department") is a small but efficiently operated agency that has managed to handle increased responsibilities in the number of entities and persons that are regulated, resulting in increased revenue, while identifying efficiencies that will result in a decrease in the number of requested staff positions.

The Department is a special revenue agency funded by filing fees collected under the Securities Act ("Act"). Currently, the Department retains \$4 million in special revenue collected each fiscal year. The Department collects approximately \$17 in total revenue each year. The current balance of the Securities Department Fund is about \$3.7 million. The annual appropriation of the Department is about \$3.5 million. The Department proposes to decrease the \$4 million cap provided for in Section 23-42-211(a)(4) of the Act to \$2.5 million in each fiscal year of the biennial budget. This will provide an additional \$1.5 million to general revenue in each year of the biennium.

The Department has experienced a high turnover in examiner and attorney positions due to the low salaries and the inability of employees to increase their salary with experience, training, and knowledge obtained on the job. In FY16, 2 attorneys, 2 support staff, and 5 examiners have terminated their employment with the Department. 9 out of 39 positions or 23% of the Department's workforce has left within the last 12 months. In the last 5 years, a total of 27 employees have left the Department. The retention problem has created a knowledge void. The Department has experienced employees that have reached retirement age and additional employees who will be retiring in the next 5 years. There is a significant gap between long-term experienced employees and a number of employees that are new or with a few years of experience. Securities and financial regulation is a specialized field. It is imperative that the Department be able to attract and retain qualified employees.

Currently, the Department has 2 Securities Deputy Commissioners, Grade N902, 1 Attorney Supervisor, Grade 127, and 6 Attorney Specialist positions, Grade 126. Additionally, the Department has 2 Securities Chief Examiners, Grade 126, 3 Securities Examiner Supervisors, Grade 124, 10 Senior Securities Examiners, Grade 122, and 5 Securities Examiners, Grade 119, positions. The Department needs to reorganize in order to operate more efficiently, to reduce the number of positions and create savings. The Department is requesting to crossgrade one Securities Deputy Commissioner to a new Attorney Manager position. Currently, the Department has 2 Securities Chief Examiners, one of which is currently downgraded to a Senior Securities Examiner. The Department proposes to retain both Securities Chief Examiner positions and keep one position downgraded. The Department proposes to eliminate one Securities Examiner position creating a savings in salaries of more than \$40,000.

The Investor Education Fund is funded by fines imposed and collected pursuant to Section 23-42-209 and 308 of the Act. Fines in excess of \$150,000 collected in any fiscal year are deposited into the Securities Department Fund. When the Securities Department Fund reaches its cap, then the fines are deposited into General Revenues. The balance of the Investor Education Fund is about \$870,000. Part of this program is to provide grants to public schools and non-profit organizations. The grants provide funding to these organizations to procure

educational resources, software, and equipment for the purpose of providing securities and investment education to teachers and students in grades 5 through 12. The current appropriation for grants is \$70,000. Each year, the Department receives grant requests in excess of the appropriation. The Department proposes to increase the appropriation for grants to \$125,000 to fulfill more qualified grant requests from existing funds.

The proposed budget for the Securities Department strives to address problems facing the Department while achieving the goal of operating more efficiently. The proposed changes reduces the total number of positions from 39 to 38. This will create savings of more than \$40,000 in salaries and fringe benefits.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
STATE SECURITIES DEPARTMENT
FOR THE YEAR ENDED JUNE 30, 2015

Findings	Recommendations
None	None

State Contracts Over \$50,000 Awarded To Minority Owned Businesses Fiscal Year 2016

None

Employment Summary

	Male	Female	Total	%
White Employees	14	16	30	86 %
Black Employees	1	2	3	9 %
Other Racial Minorities	2	0	2	5 %
Total Minorities			5	14 %
Total Employees			35	100 %

Cash Fund Balance Description as of June 30, 2016

Fund Account	Balance	Type	Location
1530000	\$3,000	Checking Account	Simmons First National Bank

Statutory/Other Restrictions on use:

None

Statutory Provisions for Fees, Fines, Penalties:

A.C.A. §23-42-304 authorizes the State Securities Department to collect various filing fees.

Revenue Receipts Cycle:

Revenue deposited as received. Excess transferred to Treasury Account.

Fund Balance Utilization:

Refunds and reimbursements, remaining revenues are transferred to treasury account.

Publications

A.C.A. 25-1-201 et seq.

Name	Statutory Authorization	Required for		# of Copies	Reason(s) for Continued Publication and Distribution	Unbound Black & White Copies Produced During the Last Two Years	Cost of Unbound Copies Produced During the Last Two Years
		Governor	General Assembly				
None	None	N	N	0	None	0	0.00

Department Appropriation Summary

Historical Data

Agency Request and Executive Recommendation

Appropriation	2015-2016		2016-2017		2016-2017		2017-2018						2018-2019					
	Actual	Pos	Budget	Pos	Authorized	Pos	Base Level	Pos	Agency	Pos	Executive	Pos	Base Level	Pos	Agency	Pos	Executive	Pos
027 State Operations	3,243,299	39	3,249,817	39	3,514,117	39	3,224,746	39	3,210,642	38	3,210,642	38	3,225,849	39	3,211,745	38	3,211,745	38
1MV Investor Education	77,715	0	113,500	0	113,500	0	113,500	0	168,500	0	168,500	0	113,500	0	168,500	0	168,500	0
C67 Refunds and Reimbursements	31,692	0	500,000	0	500,000	0	500,000	0	500,000	0	500,000	0	500,000	0	500,000	0	500,000	0
Total	3,352,706	39	3,863,317	39	4,127,617	39	3,838,246	39	3,879,142	38	3,879,142	38	3,839,349	39	3,880,245	38	3,880,245	38

Funding Sources		%		%		%		%		%		%		%		%		%
Fund Balance	4000005	4,413,460	52.0	5,132,836	52.5	5,919,519	65.3	5,919,519	65.3	5,919,519	65.3	5,231,273	62.4	5,190,377	62.2	5,190,377	62.2	
Special Revenue	4000030	4,040,540	47.6	4,150,000	42.4	2,650,000	29.2	2,650,000	29.2	2,650,000	29.2	2,650,000	31.6	2,650,000	31.8	2,650,000	31.8	
Cash Fund	4000045	31,542	0.4	500,000	5.1	500,000	5.5	500,000	5.5	500,000	5.5	500,000	6.0	500,000	6.0	500,000	6.0	
Total Funds		8,485,542	100.0	9,782,836	100.0	9,069,519	100.0	9,069,519	100.0	9,069,519	100.0	8,381,273	100.0	8,340,377	100.0	8,340,377	100.0	
Excess Appropriation/(Funding)		(5,132,836)		(5,919,519)		(5,231,273)		(5,190,377)		(5,190,377)		(4,541,924)		(4,460,132)		(4,460,132)		
Grand Total		3,352,706		3,863,317		3,838,246		3,879,142		3,879,142		3,839,349		3,880,245		3,880,245		

Agency Position Usage Report

FY2014 - 2015						FY2015 - 2016						FY2016 - 2017					
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	
39	37	2	39	0	5.13 %	39	36	3	39	0	7.69 %	39	34	5	39	0	12.82 %

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 Regular Salaries and Personal Services Matching include the continuation of the previously authorized 2017 Salaries and Career Service Payments for eligible employees. Personal Services Matching includes the monthly contribution for State employee's health insurance for a total State match per budgeted employee of \$420 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 unclassified positions reflects the FY17 line item maximum plus the previously authorized 2016 1% Cost of Living Adjustment authorized by Act 1007 (3 (B)) of 2015.

Base Level for the biennium is \$3,224,746 in FY18 and \$3,225,849 in FY19.

The Agency's Change Level request totals (\$14,104) each year and includes:

- Reduction in Regular Salaries and Personal Services Matching due to elimination of one (1) Securities Examiner
- Reallocation of \$23,500 from Professional Fees to Operating Expenses to properly code what was once considered a professional service.
- Reallocation of \$15,700 between General Ledger codes within Operating Expenses to align with agency needs.
- Capital Outlay of \$35,000 each year for vehicle purchases.

The Executive Recommendation provides for the Agency Request.

The Executive Recommendation provides for the Agency Request for Capital Outlay to replace aging, high mileage vehicles in accordance with A.C.A. §22-8-201 et seq., Automobile and Pickup Truck Acquisition Act, which establishes guidelines for automobile replacement.

Appropriation Summary

Appropriation: 027 - State Operations

Funding Sources: SDH - Securities Department Fund

Historical Data

Agency Request and Executive Recommendation

Commitment Item		Historical Data			Agency Request and Executive Recommendation			Agency Request and Executive Recommendation		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	2017-2018			2018-2019		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries	5010000	2,004,925	2,010,552	2,051,884	2,012,311	1,976,402	1,976,402	2,013,211	1,977,302	1,977,302
#Positions		39	39	39	39	38	38	39	38	38
Extra Help	5010001	12,719	16,000	16,000	16,000	16,000	16,000	16,000	16,000	16,000
#Extra Help		2	2	2	2	2	2	2	2	2
Personal Services Matching	5010003	731,965	643,121	666,089	654,791	641,596	641,596	654,994	641,799	641,799
Operating Expenses	5020002	437,214	447,160	447,160	447,160	470,660	470,660	447,160	470,660	470,660
Conference & Travel Expenses	5050009	23,033	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000
Professional Fees	5060010	0	44,484	44,484	44,484	20,984	20,984	44,484	20,984	20,984
Data Processing	5090012	0	0	0	0	0	0	0	0	0
Capital Outlay	5120011	29,127	38,500	38,500	0	35,000	35,000	0	35,000	35,000
Contingency	5130018	0	0	200,000	0	0	0	0	0	0
Examination Travel	5900046	4,316	20,000	20,000	20,000	20,000	20,000	20,000	20,000	20,000
Total		3,243,299	3,249,817	3,514,117	3,224,746	3,210,642	3,210,642	3,225,849	3,211,745	3,211,745
Funding Sources										
Fund Balance	4000005	3,565,178	4,258,684		5,008,867	5,008,867	5,008,867	4,284,121	4,298,225	4,298,225
Special Revenue	4000030	3,936,805	4,000,000		2,500,000	2,500,000	2,500,000	2,500,000	2,500,000	2,500,000
Total Funding		7,501,983	8,258,684		7,508,867	7,508,867	7,508,867	6,784,121	6,798,225	6,798,225
Excess Appropriation/(Funding)		(4,258,684)	(5,008,667)		(4,284,121)	(4,298,225)	(4,298,225)	(3,558,272)	(3,586,480)	(3,586,480)
Grand Total		3,243,299	3,249,817		3,224,746	3,210,642	3,210,642	3,225,849	3,211,745	3,211,745

Change Level by Appropriation

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

Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	3,224,746	39	3,224,746	100.0	3,225,849	39	3,225,849	100.0
C01	Existing Program	35,000	0	3,259,746	101.1	35,000	0	3,260,849	101.1
C03	Discontinue Program	(49,104)	(1)	3,210,642	99.6	(49,104)	(1)	3,211,745	99.6
C04	Reallocation	0	0	3,210,642	99.6	0	0	3,211,745	99.6

Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	3,224,746	39	3,224,746	100.0	3,225,849	39	3,225,849	100.0
C01	Existing Program	35,000	0	3,259,746	101.1	35,000	0	3,260,849	101.1
C03	Discontinue Program	(49,104)	(1)	3,210,642	99.6	(49,104)	(1)	3,211,745	99.6
C04	Reallocation	0	0	3,210,642	99.6	0	0	3,211,745	99.6

Justification

C01	Capital Outlay to replace state vehicle.
C03	Elimination of one (1) Securities Examiner position to meet agency needs.
C04	Reallocation of \$23,500 from Professional Fees to Operating Expenses to meet agency needs.

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.

Base Level Request is \$113,500 each year of the biennium.

The Agency Change Level request of \$55,000 in Grants and Aid is to fulfill additional qualified grant requests from existing funds.

The Executive Recommendation provides for the Agency Request.

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		
		2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	2017-2018			2018-2019		
					Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses	5020002	1,286	36,000	36,000	36,000	36,000	36,000	36,000	36,000	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	7,098	7,500	7,500	7,500	7,500	7,500	7,500	7,500	7,500
Grants and Aid	5100004	69,331	70,000	70,000	70,000	125,000	125,000	70,000	125,000	125,000
Capital Outlay	5120011	0	0	0	0	0	0	0	0	0
Total		77,715	113,500	113,500	113,500	168,500	168,500	113,500	168,500	168,500
Funding Sources										
Fund Balance	4000005	845,132	871,152		907,652	907,652	907,652	944,152	889,152	889,152
Special Revenue	4000030	103,735	150,000		150,000	150,000	150,000	150,000	150,000	150,000
Total Funding		948,867	1,021,152		1,057,652	1,057,652	1,057,652	1,094,152	1,039,152	1,039,152
Excess Appropriation/(Funding)		(871,152)	(907,652)		(944,152)	(889,152)	(889,152)	(980,652)	(870,652)	(870,652)
Grand Total		77,715	113,500		113,500	168,500	168,500	113,500	168,500	168,500

Change Level by Appropriation

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

Agency Request

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	113,500	0	113,500	100.0	113,500	0	113,500	100.0
C01	Existing Program	55,000	0	168,500	148.5	55,000	0	168,500	148.5

Executive Recommendation

Change Level		2017-2018	Pos	Cumulative	% of BL	2018-2019	Pos	Cumulative	% of BL
BL	Base Level	113,500	0	113,500	100.0	113,500	0	113,500	100.0
C01	Existing Program	55,000	0	168,500	148.5	55,000	0	168,500	148.5

Justification

C01	Increase in appropriation for grants to match funding levels.
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Analysis of Budget Request

Appropriation: C67 - Refunds and Reimbursements

Funding Sources: 153 - Securities Department - Cash in Bank

The Securities Department's Refunds and Reimbursements appropriation is a Cash in Bank account that is used for transfer of fee collections to State Treasury fund accounts after necessary refunds have been made. Transfers to the Treasury do not appear as expenditures.

The Agency Request provides for Base Level of \$500,000 each year of the biennium.

The Executive Recommendation provides for the Agency Request. Expenditure of appropriation is contingent upon available funding.

Appropriation Summary

Appropriation: C67 - Refunds and Reimbursements
Funding Sources: 153 - Securities Department - Cash in Bank

Historical Data

Agency Request and Executive Recommendation

Commitment Item	Historical Data			2017-2018			2018-2019		
	2015-2016 Actual	2016-2017 Budget	2016-2017 Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Refunds/Reimbursements 5110014	31,692	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Total	31,692	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Funding Sources									
Fund Balance 4000005	3,150	3,000		3,000	3,000	3,000	3,000	3,000	3,000
Cash Fund 4000045	31,542	500,000		500,000	500,000	500,000	500,000	500,000	500,000
Total Funding	34,692	503,000		503,000	503,000	503,000	503,000	503,000	503,000
Excess Appropriation/(Funding)	(3,000)	(3,000)		(3,000)	(3,000)	(3,000)	(3,000)	(3,000)	(3,000)
Grand Total	31,692	500,000		500,000	500,000	500,000	500,000	500,000	500,000

Expenditure of appropriation is contingent upon available funding.