

STATE SECURITIES DEPARTMENT

Enabling Laws

Acts 39 & 422 of 2003

Act 948 of 2003

AR Code § 20-17-1001 et seq.

AR Code § 23-35-101 et seq.

AR Code § 23-37-101 et seq.

AR Code § 23-39-501

AR Code § 23-41-101 et seq.

AR Code § 23-42-101 et seq.

AR Code § 23-13-101 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

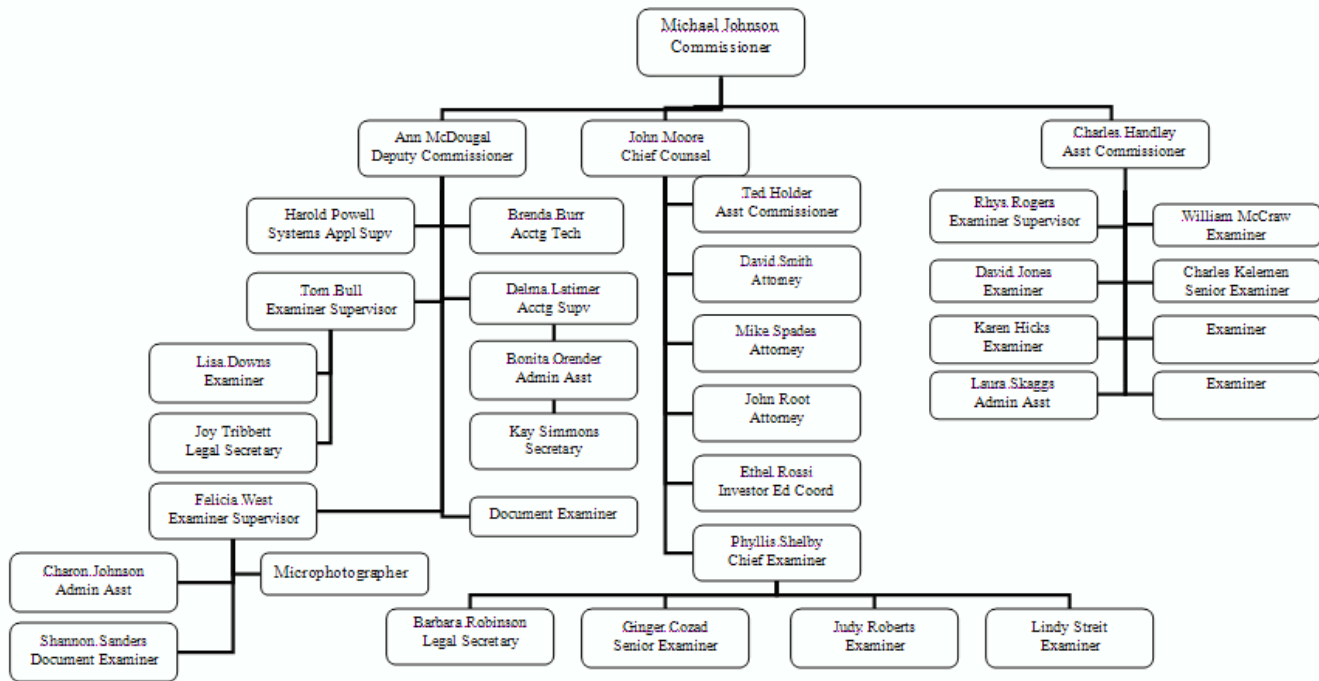
Department, up to a maximum of \$200,000 in each fiscal year, to be used to contract for legal, accounting, and other appropriate assistance in addition to that available from the Department's regular staff, in specific cases and situations as deemed necessary by the Securities Commissioner. Act 207 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, and/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 fees received by the Department and deposited into the Securities Department Fund are limited to one million dollars (\$1,000,000) each fiscal year. 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. The budget request for the State Operations Program reflects \$2,553,507 and \$2,606,510 as Base Level for FY06 and FY07, respectively. Base Level for the Investor Education Program is \$45,000 each year. Change Level requests include the following items:

Personnel: The Department is requesting that three positions of Securities Examiners, Grade 20, be added to the CLIP series for Securities Senior Examiner, Grade 21. The employees will be eligible for a CLIP I promotion after meeting certain requirements. The three positions will then be treated the same as the other eight Securities Examiner positions.

Investor Education Program: To move expenses in the amount of \$17,500 previously appropriated in the State Operations Program to the Investor Education Program.

Operating Expenses: To move expenses in the amount of \$10,000 from Professional Fees & Services to Operating Expenses to pay for court reporters. The Office of Accounting now requires court reporter expenses to be paid from Operating Expenses. To increase Operating Expenses by an additional \$13,871 in FY06 and \$21,771 in FY07 for a rent increase due to increasing the size of the staff in the 2003 legislative session and additional software and hardware costs in accordance with the IT Plan. The requested totals for Operating Expenses in the State Operations Program are \$341,500 in FY06 and \$349,400 in FY07.

Capital Outlay: The Department is requesting a Change Level of \$13,500 in FY06 and \$10,000 in FY07 for replacement of obsolete and irreparable equipment, file server, firewall and other information technology equipment in accordance with the Department's Information Technology Plan.

Audit Findings

DIVISION OF LEGISLATIVE AUDIT
AUDIT OF :
STATE SECURITIES DEPARTMENT
FOR THE YEAR ENDED JUNE 30, 2003

Findings	Recommendations
None	None

Employment Summary

	Male	Female	Total	%
White Employees	12	17	29	94 %
Black Employees	1	1	2	6 %
Other Racial Minorities	0	0	0	0 %
Total Minorities			2	6%
Total Employees			31	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 / Program Summary

Historical Data						Agency Request and Executive Recommendation								
Appropriation / Program	2003-2004		2004-2005		2004-2005		2005-2006				2006-2007			
	Actual	Pos	Budget	Pos	Authorized	Pos	Agency	Pos	Executive	Pos	Agency	Pos	Executive	Pos
027 State Operations	2,332,512	31	2,476,777	35	2,502,181	35	2,571,113	35	2,571,113	35	2,628,747	35	2,628,747	35
1MV Investor Education	31,086	0	50,000	0	50,000	0	62,500	0	62,500	0	62,500	0	62,500	0
867 Overpayments/Transfer to Treas	0	0	15,000,000	0	15,000,000	0	15,000,000	0	15,000,000	0	15,000,000	0	15,000,000	0
Total	2,363,598	31	17,526,777	35	17,552,181	35	17,633,613	35	17,633,613	35	17,691,247	35	17,691,247	35

Funding Sources			%		%		%		%		%		%		
Fund Balance	4000005	17,056,539	93.7	15,842,941	49.5			14,466,164	47.3	14,466,164	47.3	12,982,551	44.6	12,982,551	44.6
Special Revenue	4000030	1,150,000	6.3	1,150,000	3.6			1,150,000	3.8	1,150,000	3.8	1,150,000	3.9	1,150,000	3.9
Cash Fund	4000045	0	0.0	15,000,000	46.9			15,000,000	48.9	15,000,000	48.9	15,000,000	51.5	15,000,000	51.5
Miscellaneous Transfers	4000355	0	0.0	0	0.0			0	0.0	0	0.0	0	0.0	0	0.0
Total Funds		18,206,539	100.0	31,992,941	100.0			30,616,164	100.0	30,616,164	100.0	29,132,551	100.0	29,132,551	100.0
Excess Appropriation/(Funding)		(15,842,941)		(14,466,164)				(12,982,551)		(12,982,551)		(11,441,304)		(11,441,304)	
Grand Total		2,363,598		17,526,777				17,633,613		17,633,613		17,691,247		17,691,247	

Analysis of Budget Request

Appropriation / Program: 027 - State Operations

Funding Sources: SDH - Securities Department Fund

The State Operations appropriation is funded by Special Revenue fees that are authorized by Arkansas Code § 19-6-475. Administrative fines collected by the Agency are also designated as Special Revenues. Base Level is \$2,553,507 for FY06 and \$2,606,510 for FY07, with 35 employees. Provided therein are graduated salary increases of 3% to 1.5% each year over the FY05 salary levels, along with related increases in Personal Services Matching. This includes a \$600 minimum increase for employees earning \$20,000 or below. Also included in Personal Services Matching is a \$40 per month increase in the monthly contribution for State employee's health insurance for a total State match of \$320 per month for each budgeted position.

The Department requests the inclusion of 3 Securities Examiner positions, Grade 20, in the Career Ladder Incentive Program series for Securities Senior Examiner, Grade 21, to match the other positions in the Securities Examiner job family. Salary and matching costs are \$7,735 in the first year and \$7,966 in the second year.

Additions in Operating Expenses are requested as follows: \$4,000 in FY06 and \$8,224 in FY07 for anticipated rent increases; \$9,871 in the first year and \$13,547 in the second year for software maintenance and replacement of desktop computers; and \$10,000 each year reallocated from Professional Fees and Services to cover court reporter costs in the proper line item.

Also requested is the reallocation of \$15,000 each year from Operating Expenses and \$2,500 each year from Promotional Items in the State Operations appropriation to the appropriation for the Investor Education Program.

Capital Outlay of \$13,500 and \$10,000, respectively, is requested for replacement and upgrading of information technology equipment.

The Executive Recommendation provides for Agency Request.

Appropriation / Program Summary

Appropriation / Program: 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		
	2003-2004 Actual	2004-2005 Budget	2004-2005 Authorized	2005-2006			2006-2007		
				Base Level	Agency	Executive	Base Level	Agency	Executive
Regular Salaries 5010000	1,331,370	1,485,648	1,508,960	1,531,539	1,538,050	1,538,050	1,576,153	1,582,858	1,582,858
#Positions	31	35	35	35	35	35	35	35	35
Extra Help 5010001	5,463	12,000	12,000	12,000	12,000	12,000	12,000	12,000	12,000
#Extra Help	2	2	2	2	2	2	2	2	2
Personal Services Matching 5010003	326,559	382,416	384,508	423,255	424,479	424,479	431,644	432,905	432,905
Operating Expenses 5020002	608,466	332,629	332,629	332,629	341,500	341,500	332,629	349,400	349,400
Travel-Conference Fees 5050009	11,118	17,100	17,100	17,100	17,100	17,100	17,100	17,100	17,100
Professional Fees and Services 5060010	6,380	24,484	24,484	24,484	14,484	14,484	24,484	14,484	14,484
Data Processing 5090012	0	0	0	0	0	0	0	0	0
Promotional Items 5090028	0	2,500	2,500	2,500	0	0	2,500	0	0
Capital Outlay 5120011	35,998	10,000	10,000	0	13,500	13,500	0	10,000	10,000
Contingency 5130018	0	200,000	200,000	200,000	200,000	200,000	200,000	200,000	200,000
Examination Travel 5900046	7,158	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000
Total	2,332,512	2,476,777	2,502,181	2,553,507	2,571,113	2,571,113	2,606,510	2,628,747	2,628,747
Funding Sources									
Fund Balance 4000005	17,053,539	15,621,027		14,144,250	14,144,250	14,144,250	12,590,743	12,573,137	12,573,137
Special Revenue 4000030	1,000,000	1,000,000		1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Miscellaneous Transfers 4000355	(100,000)	0		0	0	0	0	0	0
Total Funding	17,953,539	16,621,027		15,144,250	15,144,250	15,144,250	13,590,743	13,573,137	13,573,137
Excess Appropriation/(Funding)	(15,621,027)	(14,144,250)		(12,590,743)	(12,573,137)	(12,573,137)	(10,984,233)	(10,944,390)	(10,944,390)
Grand Total	2,332,512	2,476,777		2,553,507	2,571,113	2,571,113	2,606,510	2,628,747	2,628,747

2003-2004 Authorized amount for Operating Expenses was \$620,100 to provide for a final installment payment of \$306,115 on the Securities Tracking and Registration System (STAR). 2003-2004 Authorized amount for Capital Outlay was \$36,000 to provide for IT hardware upgrades and firewall for the STAR system.

Miscellaneous Transfers: Transfer of \$100,000 to the Investor Education Fund to provide initial funding per Act 759 of 2003, Section 2(c)(1).

Change Level by Appropriation

Appropriation / Program: 027-State Operations

Funding Sources: SDH - Securities Department Fund

Agency Request

Change Level		2005-2006	Pos	Cumulative	% of BL	2006-2007	Pos	Cumulative	% of BL
BL	Base Level	2,553,507	35	2,553,507	100.0	2,606,510	35	2,606,510	100.0
C01	Existing Program	23,871	0	2,577,378	100.9	31,771	0	2,638,281	101.2
C03	Discontinue Program	(27,500)	0	2,549,878	99.8	(27,500)	0	2,610,781	100.1
C08	Technology	13,500	0	2,563,378	100.3	10,000	0	2,620,781	100.5
C09	CLIP Reclass	7,735	0	2,571,113	100.6	7,966	0	2,628,747	100.8

Executive Recommendation

Change Level		2005-2006	Pos	Cumulative	% of BL	2006-2007	Pos	Cumulative	% of BL
BL	Base Level	2,553,507	35	2,553,507	100.0	2,606,510	35	2,606,510	100.0
C01	Existing Program	23,871	0	2,577,378	100.9	31,771	0	2,638,281	101.2
C03	Discontinue Program	(27,500)	0	2,549,878	99.8	(27,500)	0	2,610,781	100.1
C08	Technology	13,500	0	2,563,378	100.3	10,000	0	2,620,781	100.5
C09	CLIP Reclass	7,735	0	2,571,113	100.6	7,966	0	2,628,747	100.8

Justification

C01	Additions in Operating Expenses are requested as follows: \$4,000 in FY06 and \$8,224 in FY07 for anticipated rent increases; \$9,871 and \$13,547, respectively, for software maintenance and replacement of PC's; and \$10,000 each year transferred from Professional Fees and Services to Operating Expenses for accurate expensing of court reporter costs.
C03	Transfer of \$10,000 each year from Professional Fees and Services to Operating Expenses is requested for payment of court reporters from the proper line item. Reallocation of \$15,000 each year in Operating Expenses for investor education and \$2,500 each year in Promotional Items is requested from the State Operations appropriation to the Investor Education Program appropriation.
C08	Capital Outlay of \$13,500 in the first year and \$10,000 in the second year is requested for replacement and upgrading of information technology equipment with unit prices above the capitalization threshold of \$2,500.
C09	Request is for the addition of 3 positions of Securities Examiner, Grade 20, to the CLIP series for Securities Senior Examiner, Grade 21. This would bring these positions into line with the Department's 8 other examiner positions.

Analysis of Budget Request

Appropriation / Program: 1MV - Investor Education

Funding Sources: SDH - Investor Education Fund

The Securities Department's Investor Education Program was established by Act 759 of 2003 and is funded by administrative fines levied by the Department. Base Level is \$45,000 each year. 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.

Prior to the establishment of this appropriation, \$15,000 each year in Operating Expenses and \$2,500 each year for Promotional Items were earmarked in the State Operations appropriation for these efforts. The Department is requesting reallocation of those resources from State Operations to the Investor Education Program.

The Executive Recommendation provides for the Agency Request.

Appropriation / Program Summary

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

Historical Data

Agency Request and Executive Recommendation

Commitment Item	2003-2004	2004-2005	2004-2005	2005-2006			2006-2007		
	Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Operating Expenses 5020002	26,917	40,000	40,000	40,000	55,000	55,000	40,000	55,000	55,000
Travel-Conference Fees 5050009	0	0	0	0	0	0	0	0	0
Professional Fees and Services 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	4,169	5,000	5,000	5,000	7,500	7,500	5,000	7,500	7,500
Capital Outlay 5120011	0	5,000	5,000	0	0	0	0	0	0
Total	31,086	50,000	50,000	45,000	62,500	62,500	45,000	62,500	62,500
Funding Sources									
Fund Balance 4000005	0	218,914		318,914	318,914	318,914	406,414	406,414	406,414
Special Revenue 4000030	150,000	150,000		132,500	150,000	150,000	132,500	150,000	150,000
Miscellaneous Transfers 4000355	100,000	0		0	0	0	0	0	0
Total Funding	250,000	368,914		451,414	468,914	468,914	538,914	556,414	556,414
Excess Appropriation/(Funding)	(218,914)	(318,914)		(406,414)	(406,414)	(406,414)	(493,914)	(493,914)	(493,914)
Grand Total	31,086	50,000		45,000	62,500	62,500	45,000	62,500	62,500

Miscellaneous Transfers: Receipt of \$100,000 from the Securities Department Fund to provide initial funding for the Investor Education Fund per Act 759 of 2003, Section 2(c)(1).

Change Level by Appropriation

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

Agency Request

Change Level		2005-2006	Pos	Cumulative	% of BL	2006-2007	Pos	Cumulative	% of BL
BL	Base Level	45,000	0	45,000	100.0	45,000	0	45,000	100.0
C01	Existing Program	17,500	0	62,500	138.8	17,500	0	62,500	138.8

Executive Recommendation

Change Level		2005-2006	Pos	Cumulative	% of BL	2006-2007	Pos	Cumulative	% of BL
BL	Base Level	45,000	0	45,000	100.0	45,000	0	45,000	100.0
C01	Existing Program	17,500	0	62,500	138.8	17,500	0	62,500	138.8

Justification

C01	Reallocation of \$15,000 each year in Operating Expenses for investor education functions from the State Operations appropriation to the Investor Education Program appropriation. Also, reallocation of \$2,500 each year for Promotional Items from the State Operations appropriation to the Investor Education Program appropriation.
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Analysis of Budget Request

Appropriation / Program: 867 - Overpayments/Transfer to Treas

Funding Sources: NSD - Cash in Treasury

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 \$15,000,000 each year should provide sufficient appropriation to cover all transfers and refunds anticipated in the 2005-2007 Biennium. Accordingly, it is requesting retention of Base Level.

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

Appropriation / Program Summary

Appropriation / Program: 867 Overpayments/Transfer to Treas
Funding Sources: NSD - Cash in Treasury

Historical Data

Agency Request and Executive Recommendation

Commitment Item	2003-2004	2004-2005	2004-2005	2005-2006			2006-2007		
	Actual	Budget	Authorized	Base Level	Agency	Executive	Base Level	Agency	Executive
Refund/Reimbursements 5110014	0	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000
Total	0	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000
Funding Sources									
Fund Balance 4000005	3,000	3,000		3,000	3,000	3,000	3,000	3,000	3,000
Cash Fund 4000045	0	15,000,000		15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000
Total Funding	3,000	15,003,000		15,003,000	15,003,000	15,003,000	15,003,000	15,003,000	15,003,000
Excess Appropriation/(Funding)	(3,000)	(3,000)		(3,000)	(3,000)	(3,000)	(3,000)	(3,000)	(3,000)
Grand Total	0	15,000,000		15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000